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*New York State*

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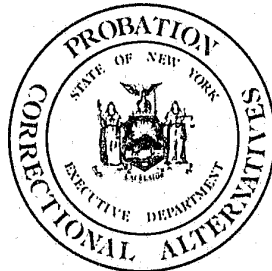
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Governor



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State Director

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THE RELATIVE UTILIZATION  
OF  
PROBATION VIS-A-VIS PRISON AS A SANCTION  
FOR  
PROBATION-ELIGIBLE FELONS  
IN  
NEW YORK STATE  
1982 - 1986

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August 1988

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## EXECUTIVE SUMMARY

This is the second report issued under the title of "The Relative Use of Probation vis-a-vis Prison...in New York State". The purpose of the report, like its predecessor, is to provide information regarding sentencing practices involving probation-eligible felons in New York State. The information contained in this report is particularly relevant given the State's commitment to the use of non-incarcerative sentences.

The use of probation supervision, as opposed to incarceration in a State institution, for probation-eligible felons, for the five year period between 1982 and 1986 is the focus of the report. The report includes an analysis of trends in the use of the probation sanction over time, among offense types, and across regions and counties.

The major limitation of this study is that the analysis is limited to probation and prison sentences. Information concerning felons sentenced to local jails or lesser sanctions is not available in sufficient detail to be included in this effort.

The principal findings of this study include:

- ° During the five year period, 88,349 felons were sentenced to either prison or probation. Of this number, 76,003 were given a sentence of probation while 12,346 were incarcerated at the state level. The probation to prison ratio for the period was 6.16:1, up from 5.37:1 for the five year period ending in December of 1984.

- ° The ratio was variable from year to year, ranging from 5.67 to 6.59; the final increase was from 5.67 in 1982, to 5.82 in 1986.
- ° Probation sentences for probation-eligible felons increased by 42 percent during the five year period while sentences to DOCS for the same group increased by 37 percent.
- ° The probation to prison ratio decreased for robbery, burglary, larceny, drugs, DWI, and "other" offenses between 1982 and 1986. It increased for weapons, assault, possession of stolen property, and sex offenses. This appears to be due to a change in the composition of conviction offenses, particularly in the area of serious drug related convictions in New York City, which may reflect the "Crack Epidemic".
- ° The relative use of probation appears to have changed among the various urbanization index regions between 1984 and 1986. In the current study, the probation to prison ratio is highest in the Downstate Urban Region, followed by the Upstate Urban, Upstate Rural, Urban/Rural, and New York City areas. Changes between the first and second reports support the earlier contention that changes and differences are due primarily to differences in the mix of offense types within and across regions. When the analysis was conducted controlling for crime type, the ratios were much more consistent across the five urban index regions.

- The ratio decreased in the Upstate Rural Region, remained the same for New York City, and increased for all other regions. Nonetheless, there was a fair degree of consistency regarding the use of probation within individual counties over the five year period.

## FOREWORD

The number of probation-eligible felons sentenced to the New York State Department of Correctional Services (DOCS) custody has been a subject of interest in the state for much of the past decade. This interest is due in part to the fiscal cost associated with the 230 percent increase, since 1973, in the state's prison population<sup>1</sup> and in part to a belief that non-incarcerative alternative sanctions would, in at least some cases, represent sound penal policy. It is important, therefore, to learn as much as possible about the dispositional dynamics of the probation-eligible felon population.

In a previous report, the Division of Probation and Correctional Alternatives (DPCA) examined the number of probation-eligible felons sentenced to DOCS custody as a function of all DOCS commitments for the five-year period, 1980 through 1984.<sup>2</sup> The division continued its study of this topic with the first edition of the present report<sup>3</sup> which

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1. DOCS undercustody population increased from 12,532 on April 1, 1973 to 41,356 on February 29, 1987.

2. Ely, Richard E., Probation Supervision Sentences 1980-1984 (Albany: New York State Division of Probation and Correctional Alternatives, November 1985) pp. 4-6.

3. Mauro, Dean, The Relative Utilization of Probation Vis-a-Vis Prison as a Sanction for Probation-Eligible Felons in

compared, for the period 1980-1984, the relative utilization of probation vis-a-vis prison as a sanction for those convicted of probation-eligible felonies. The current report addresses the question in the same way for the period 1982-1986. The report will allow study of the change, over time, in the relative use of probation and a comparison of the utilization of probation among crime types, regions and counties in the state.

#### PROBATION ELIGIBILITY FOR FELONY OFFENDERS

Before describing the results of the analysis, it is worthwhile to first review the concept of probation eligibility for felony offenders.

#### FELONY DEFINED

In New York State a felony is defined as an offense for which an indeterminate sentence, in excess of one year, to the custody of DOCS can be imposed.<sup>4</sup> Thus, anyone convicted of a felony can, by definition, be sentenced to prison. Certain felony offenders, based on a combination of the severity of the conviction offense and record of prior felony convictions, must be sentenced to prison. Others, based on the same criteria, may receive any one of a variety of non-prison sanctions including probation supervision.

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New York State 1980-1984 (Albany: New York State Division of Probation and Correctional Alternatives, September 1986).

4. Penal Law, Sections 10.00(5), 70.00(1), 70.20(1).



## EVOLUTION OF PENAL LAW AND IMPACT ON PROBATION ELIGIBILITY

The line which divides the situations where prison is required from those where a sentence of probation supervision is an available option, however, is not static. In fact, numerous changes in the law affecting probation eligibility have been made since September 1, 1967, when the state's revised penal law became effective. The previous edition of this report<sup>5</sup> describes the changes which occurred in the state's penal law since 1967. In essence, the increases in statutorily mandated prison sentences and other legislative restrictions, directly or indirectly, have combined to exclude many offenders from judicial consideration as "probation eligible."

Currently, in New York State, probation is an available sentencing option for those classified as first-felony offenders where the present conviction is for any Class D or Class E felony or for one of a number of selected Class C non-violent felony offenses. Additionally, all those granted youthful offender status, no matter what the underlying offense, are eligible for probation. In some situations, probation eligibility is not available unconditionally. In these cases, probation is only available if mitigating circumstances are found to exist or if a period of probation

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5. Mauro, The Relative Utilization of Probation Vis-a-Vis Prison as a Sanction for Probation-Eligible Felons in New York State 1980-1984. pp. 5-9.

supervision is imposed in conjunction with a specified term of confinement in jail (usually for six months or less).

Additionally, persons convicted of Class A-II or Class B drug felonies are eligible for lifetime probation if the offender provides material assistance in the investigation, apprehension or prosecution of another person for a drug felony. (Note: Persons eligible for this type of probation were not included in the analysis in this report). A list of all probation-eligible offenses is presented in Appendix 1.

#### METHOD OF ANALYSIS

##### PROBATION:PRISON RATIO

A ratio of probation sentences to prison sentences was constructed to measure the relative utilization of probation and prison as sentences for those convicted of probation-eligible felonies. The ratio represents the number of persons sentenced to probation for each person sentenced to prison. For example, if during the five-year period, out of 2,000 probation-eligible felony offenders, 1,500 received probation sentences and 500 were sentenced to prison, the probation:prison ratio would be 3.00 (1,500/500). This ratio shows that for each person sentenced to prison, 3 persons were sentenced to a period of probation supervision. If, for another crime, out of 2,000 probation-eligible felony offenders, 1,600 probation-eligible felony offenders received probation sentences and 400 persons were sentenced to prison, the probation:prison ratio would be 4.00

(1,600/400). Thus, the greater the degree to which probation is used as a sanction relative to prison, the larger the probation:prison ratio.

#### RATIO BENEFITS AND LIMITATIONS

The ratio measure allows for comparisons between crime types, regions, and counties which process different numbers of cases. For example, if the probation:prison ratio is 4.25 for Offense X and 3.25 for Offense Y one can conclude that probation is utilized to a greater degree for Offense X than for Offense Y no matter what the raw number of persons convicted of each crime.

The ratio measure does not, however, take into account those persons convicted of probation-eligible felonies who receive a sentence other than prison or probation (i.e. local jail, fine, conditional discharge, etc.). It does include, as probation cases, those sentenced to split-sentences (a sentence to a period of incarceration in a local jail followed by a period of probation supervision).

The probation:prison ratio employed in this report is influenced by the legislatively defined circumstances where probation is an available option. The ratio would not remain constant if the circumstances where probation is an available option were changed. Therefore, it is beyond the scope of this report to examine either the appropriateness of or the potential impact of changes in the laws which define probation eligibility.

The probation:prison ratio does allow for an analysis of current practices concerning those felony offenders who, under current law, are eligible to be sentenced to a period of probation supervision rather than prison. The information should be useful to policy makers who wish to improve the efficacy of the state's Alternatives to Incarceration and Intensive Supervision Program.

### DATA SOURCES

#### DPCA AND DOCS

The information needed to construct the ratio measure was obtained from two distinct data bases.

Information about felony offenders sentenced to probation was generated from the Probation Registrant System (PRS) data base maintained by the DPCA Management and Information Systems Unit.<sup>6</sup> Information about probation-eligible commitments to DOCS was provided by that agency's Division of Program Planning, Research and Evaluation from its admissions file data set.

#### DPCA URBANIZATION INDEX

Finally, to assist in the analysis, New York State's 62 counties were grouped into five regions based on an Urbanization Index (UI) developed by Research and Evaluation staff as part of the Division's Comprehensive Management

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6. Some minor differences exist between this and other DPCA reports in the number of felons sentenced to probation.

Operations Review System project. The index is based on a combination of population, population density and whether the county includes or is contiguous to a major metropolitan area. The five groupings were established as follows:

1. NEW YORK CITY -- New York, Bronx, Queens, Kings and Richmond Counties.
2. DOWNSTATE URBAN -- Nassau, Suffolk and Westchester Counties.
3. UPSTATE URBAN -- Erie, Monroe and Onondaga Counties.
4. MIXED URBAN/RURAL -- Albany, Broome, Chemung, Dutchess, Niagara, Oneida, Orange, Rensselaer, Rockland, Saratoga, Schenectady and Ulster Counties.
5. RURAL -- The remaining 39 counties.

## FINDINGS

### FIVE-DIMENSIONAL ANALYSIS

The probation:prison ratio is analyzed, in this report, along five dimensions to provide an understanding of the dynamics which influence the relative use of probation and prison as a sanction for those convicted of felony offenses in the state. First, the analysis will look at the probation:prison ratio for all probation-eligible felonies state-wide. Second, the differences in the ratio among crime types state-wide will be examined. Third, the ratio will be compared across UI regions for all offenses collectively.

Fourth, the combined effect of crime type and UI region and the probation:prison ratio will be examined. Finally, differences in the ratio between counties within the same UI region will be examined.

#### STATEWIDE PROBATION-ELIGIBLE POPULATION

Overall, 88,349 probation-eligible felons were sentenced to either probation supervision or to state prison during the five-year period from 1982 through 1986. (See Table 1 and Charts 1 and 2). Of this total, approximately 6.16 persons were sentenced to probation (76,003) for each person sentenced to prison (12,346). The analysis shows that the probation:prison ratio increased from 5.67 in 1982 to 6.45 in 1983, decreased to 6.29 in 1984, increased to 6.59 in 1985 and decreased to 5.82 in 1986.

#### CRIME TYPE DIFFERENCES

An analysis of the information displayed in Table 2A<sup>7</sup> and Charts 3, 4 and 5 reveals considerable differences in the probation:prison ratio for the nine most frequently occurring crime types<sup>8</sup> -- both overall and in the magnitude and direction of the yearly change in the probation:prison ratio. For the five years combined, robbery (3.24), sex

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7. Tables 2B through 2F present the same data for each of the state's urbanization regions.

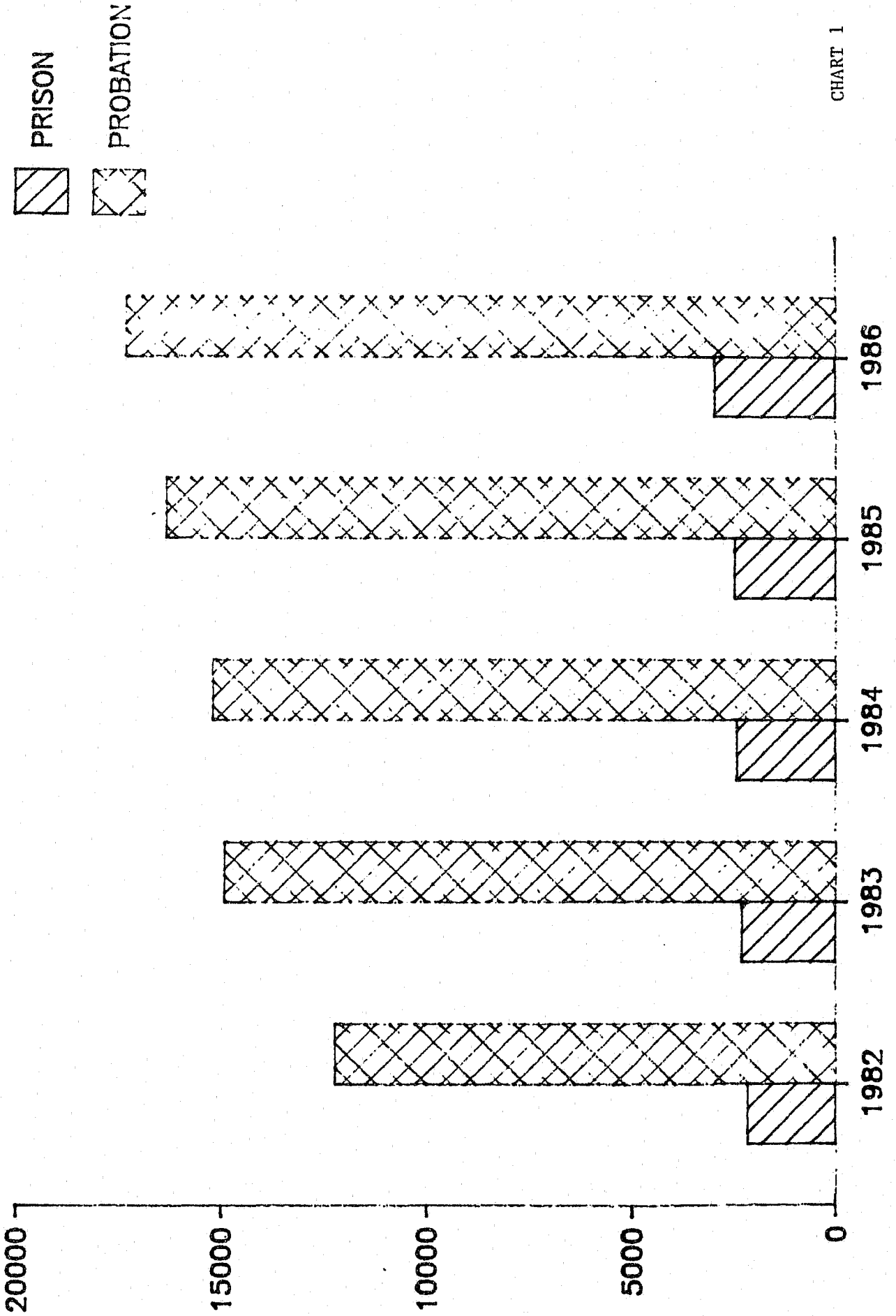
8. The crime types of robbery, burglary, assault, weapons, grand larceny, non-marijuana drugs, sex, criminal possession of stolen property and driving while intoxicated accounted for nearly 90 percent of probation-eligible felony cases sentenced to prison and probation for the time period.

TABLE 1  
 PRISON AND PROBATION SENTENCES FOR  
 PROBATION ELIGIBLE FELONS BY YEAR

	<u>1982</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>TOTAL</u>
PRISON SENTENCES	2159	2312	2418	2479	2978	12346
PROBATION SENTENCES	12233	14909	15199	16338	17324	76003
RATIO	5.67	6.45	6.29	6.59	5.82	6.16

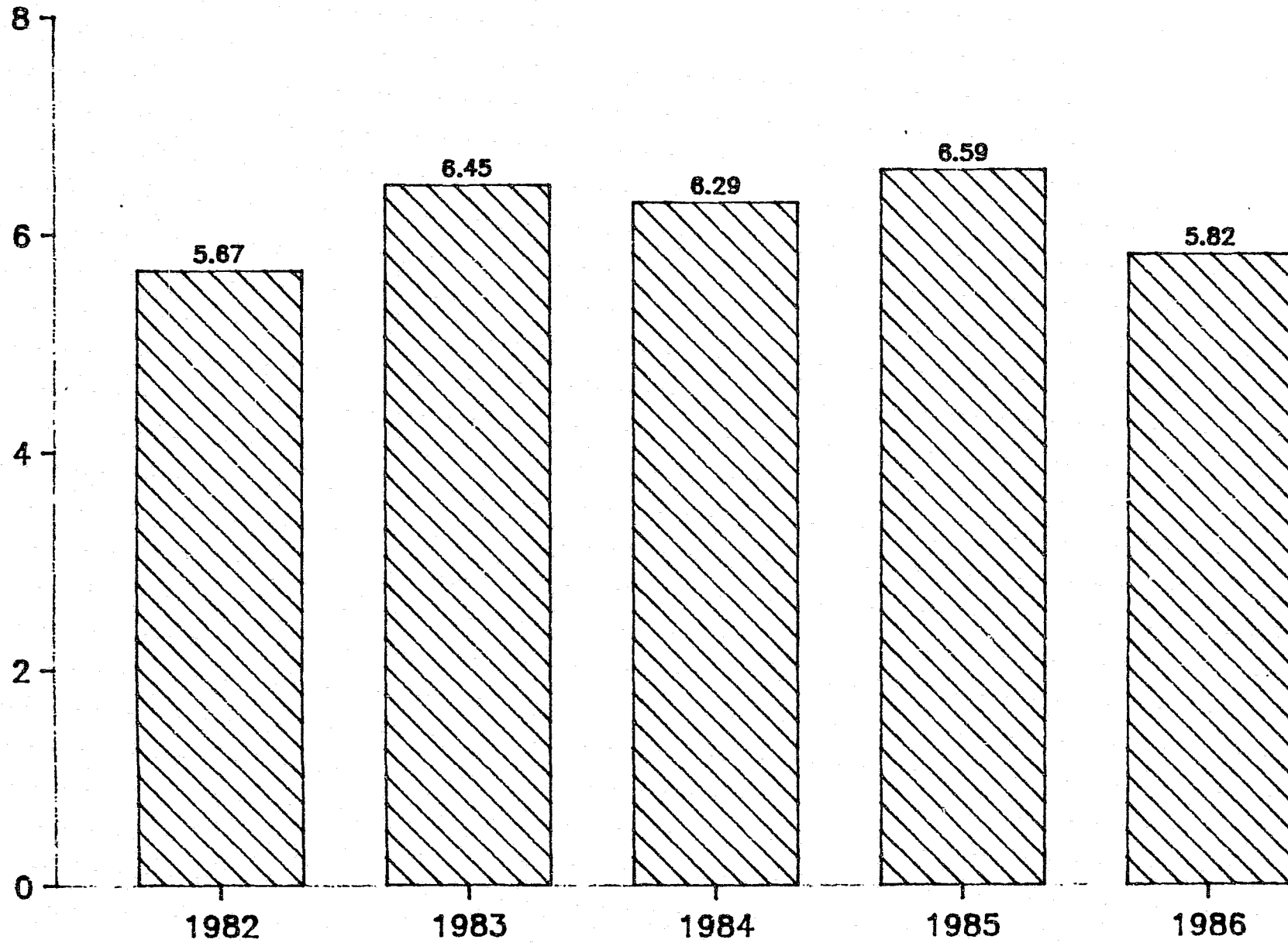
# PRISON AND PROBATION SENTENCES

1982-1986





# PRISON:PROBATION RATIO 1982-1986



-14-

CHART 2

TABLE 2A  
 PRISON AND PROBATION SENTENCES FOR  
 PROBATION-ELIGIBLE FELONS BY CRIME TYPE AND YEAR  
 NEW YORK STATE

	1982		1983		1984		1985		1986		FIVE-YEAR TOTAL	
	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT
ROBBERY	2381	16.54%	3076	17.86%	2822	16.82%	2528	13.43%	2732	13.19%	13539	15.25%
BURGLARY	3261	22.66%	3481	20.21%	3251	18.45%	2914	15.49%	2979	14.38%	15886	17.98%
ASSAULT	744	5.17%	845	5.20%	1001	5.68%	1110	5.98%	1144	5.52%	4894	5.51%
WEAPONS	1482	10.38%	1872	10.87%	1882	10.68%	1698	8.98%	1618	7.81%	8544	9.63%
LARCENY	1349	9.37%	1327	7.71%	1418	8.95%	1711	9.09%	1934	9.34%	7739	8.72%
DRUG	1785	11.85%	2317	13.45%	2585	14.22%	3167	16.83%	3695	17.84%	13389	15.88%
SEX	325	2.26%	418	2.38%	496	2.82%	694	3.69%	752	3.63%	2677	3.02%
CPSP	432	3.08%	643	3.73%	748	4.25%	848	4.51%	998	4.78%	3661	4.12%
DWI	1288	8.95%	1742	10.12%	2053	11.65%	2519	13.39%	2665	12.87%	10267	11.57%
OTHER	1425	9.98%	1458	8.47%	1448	8.17%	1676	8.91%	1793	8.66%	7792	8.78%
TOTAL	14392		17221		17617		18817		20712		88759	

	1982		1983		1984		1985		1986		FIVE-YEAR TOTAL	
	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION
ROBBERY	576	1085	671	2485	638	2184	599	1929	786	2026	3198	10349
BURGLARY	686	2655	685	2876	546	2785	544	2378	642	2337	2943	12943
ASSAULT	181	563	174	721	217	784	223	887	232	912	1027	3867
WEAPONS	138	1344	161	1711	151	1731	151	1539	142	1476	743	7881
LARCENY	136	1213	185	1222	151	1267	218	1581	245	1689	847	6892
DRUG	117	1588	158	2167	196	2389	216	2951	316	3379	995	12394
SEX	83	242	99	311	128	376	158	544	178	582	622	2855
CPSP	92	348	87	556	183	645	124	724	146	844	552	3189
DWI	29	1259	43	1699	47	2886	54	2465	87	2578	268	10887
OTHER	281	1224	217	1241	248	1192	248	1428	292	1581	1286	6586
TOTAL	2159	12233	2312	14989	2418	15199	2479	16338	2978	17734	12346	76413

	1982	1983	1984	1985	1986	TOTAL
	RATIO	RATIO	RATIO	RATIO	RATIO	RATIO
ROBBERY	3.13	3.58	3.42	3.22	2.87	3.24
BURGLARY	4.38	4.75	4.95	4.36	3.64	4.48
ASSAULT	3.11	4.14	3.61	3.98	3.93	3.77
WEAPONS	9.74	10.63	11.46	10.19	10.39	10.58
LARCENY	8.92	11.64	8.39	7.15	6.89	8.14
DRUG	13.57	14.45	11.78	13.66	18.69	12.46
SEX	2.92	3.14	3.13	3.63	3.42	3.38
CPSP	3.78	6.39	6.26	5.84	5.78	5.63
DWI	43.41	39.51	42.68	45.65	29.63	38.49
OTHER	6.89	5.72	4.81	5.76	5.14	5.46
TOTAL	5.67	6.45	6.29	6.59	5.96	6.19

TABLE 2B  
PRISON AND PROBATION SENTENCES FOR  
PROBATION-ELIGIBLE FELONS BY CRIME TYPE AND YEAR  
NEW YORK CITY

	1982		1983		1984		1985		1986		FIVE-YEAR TOTAL	
	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT
ROBBERY	1940	26.62%	2562	27.50%	2262	24.70%	2045	20.95%	2292	20.47%	11101	23.76%
BURGLARY	1095	15.03%	1317	14.14%	1202	13.13%	1083	11.10%	1174	10.48%	5871	12.57%
ASSAULT	400	5.49%	520	5.58%	537	5.86%	629	6.44%	676	6.04%	2762	5.91%
WEAPONS	1342	18.42%	1707	18.32%	1708	18.65%	1509	15.46%	1459	13.03%	7725	16.53%
LARCENY	619	8.49%	606	6.50%	626	6.84%	741	7.59%	909	8.12%	3501	7.49%
DRUG	1095	15.03%	1615	17.33%	1601	18.36%	2210	22.72%	2049	25.44%	9450	20.24%
SEX	102	1.40%	131	1.41%	127	1.39%	204	2.09%	234	2.09%	790	1.71%
CPSP	194	2.66%	348	3.74%	420	4.67%	486	4.98%	624	5.57%	2000	4.45%
DWI	22	.30%	72	.77%	130	1.42%	233	2.39%	201	2.51%	730	1.50%
OTHER	415	5.70%	439	4.71%	455	4.97%	613	6.20%	700	6.25%	2622	5.61%
TOTAL	7207		9317		9157		9761		11190		46720	

	1982		1983		1984		1985		1986		FIVE-YEAR TOTAL	
	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION
ROBBERY	459	1401	555	2007	522	1740	466	1579	591	1701	2593	8500
BURGLARY	266	829	340	977	204	910	244	839	360	814	1494	4377
ASSAULT	93	307	112	400	125	412	139	490	132	544	601	2161
WEAPONS	114	1220	139	1560	125	1503	124	1305	119	1340	621	7104
LARCENY	63	556	61	545	82	544	109	632	130	779	445	3056
DRUG	65	1030	101	1514	129	1552	160	2050	256	2593	711	8747
SEX	25	77	37	94	24	103	41	163	45	109	172	626
CPSP	44	150	36	312	51	377	60	426	91	533	282	1790
DWI	0	22	2	70	2	120	0	225	6	275	10	720
OTHER	20	395	71	360	95	360	101	512	133	567	420	2202
TOTAL	1212	6075	1454	7063	1440	7717	1452	8309	1063	9335	7421	39299

	1982	1983	1984	1985	1986	TOTAL
	RATIO	RATIO	RATIO	RATIO	RATIO	RATIO
ROBBERY	3.23	3.62	3.33	3.39	2.00	3.20
BURGLARY	3.12	2.07	3.23	3.44	2.26	2.93
ASSAULT	3.30	3.64	3.30	3.53	4.12	3.60
WEAPONS	10.77	11.20	12.66	11.17	11.26	11.44
LARCENY	0.83	0.93	0.63	0.80	0.99	0.87
DRUG	15.05	14.99	12.03	12.06	10.13	12.30
SEX	3.00	2.54	4.29	3.90	4.20	3.64
CPSP	3.41	0.67	7.39	7.10	5.06	6.30
DWI	N/A	35.00	64.00	20.13	45.03	40.00
OTHER	19.75	5.10	3.79	5.07	4.26	5.24
TOTAL	5.01	5.41	5.36	5.72	5.01	5.30

TABLE 2C  
PRISON AND PROBATION SENTENCES FOR  
PROBATION-ELIGIBLE FELONS BY CRIME TYPE AND YEAR  
DOWNSTATE URBAN

	1982		1983		1984		1985		1986		FIVE-YEAR TOTAL	
	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT
ROBBERY	225	9.01%	277	10.12%	316	10.69%	244	8.02%	230	7.70%	1292	9.11%
BURGLARY	806	32.27%	783	28.60%	706	23.08%	610	20.06%	600	20.30%	3585	24.70%
ASSAULT	123	4.92%	116	4.24%	106	6.29%	107	6.15%	150	5.35%	770	5.43%
WEAPONS	67	2.68%	105	3.83%	109	3.69%	104	3.42%	77	2.60%	462	3.26%
LARCENY	214	8.57%	230	8.40%	253	8.56%	331	10.80%	350	12.11%	1386	9.77%
DRUG	340	13.93%	352	12.86%	446	15.09%	450	15.06%	405	13.70%	2009	14.16%
SEX	43	1.72%	63	2.30%	84	2.84%	96	3.16%	86	2.91%	372	2.62%
CPSP	86	3.44%	89	3.25%	110	3.99%	135	4.44%	133	4.50%	561	3.95%
DWI	310	12.41%	415	15.16%	441	14.92%	562	18.48%	620	21.24%	2356	16.60%
OTHER	276	11.05%	300	11.25%	290	10.00%	314	10.33%	281	9.51%	1477	10.41%
TOTAL	2490		2730		2956		3041		2956		14189	

	1982		1983		1984		1985		1986		FIVE-YEAR TOTAL	
	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION
ROBBERY	42	183	30	239	41	275	34	210	42	180	197	1095
BURGLARY	97	709	71	712	81	625	79	531	61	539	389	3116
ASSAULT	25	98	10	106	26	160	22	165	27	131	110	660
WEAPONS	3	64	15	90	15	94	14	90	8	69	55	407
LARCENY	10	196	14	216	30	223	33	290	32	326	127	1259
DRUG	30	310	15	337	25	421	17	441	23	302	110	1899
SEX	8	35	11	52	17	67	22	74	11	75	69	303
CPSP	21	65	15	74	20	90	10	117	21	112	95	466
DWI	5	305	13	402	8	433	14	540	22	606	62	2294
OTHER	37	239	49	259	50	240	39	275	43	230	210	1259
TOTAL	206	2212	251	2407	312	2644	292	2749	290	2666	1431	12750

	1982	1983	1984	1985	1986	TOTAL
	RATIO	RATIO	RATIO	RATIO	RATIO	RATIO
ROBBERY	4.36	6.29	6.71	6.18	4.48	5.56
BURGLARY	7.31	10.03	7.72	6.72	8.04	8.01
ASSAULT	3.92	10.60	6.15	7.50	4.85	6.00
WEAPONS	21.33	6.00	6.27	6.43	8.63	7.40
LARCENY	10.89	15.43	7.43	9.03	10.19	9.91
DRUG	10.60	22.47	16.04	25.94	16.61	17.26
SEX	4.30	4.73	3.94	3.36	6.02	4.39
CPSP	3.10	4.93	4.90	6.50	5.33	4.91
DWI	61.00	30.92	54.13	39.14	27.55	37.00
OTHER	6.46	5.29	4.96	7.05	5.53	5.70
TOTAL	7.73	9.91	8.47	9.41	9.19	8.92

TABLE 2D  
 PRISON AND PROBATION SENTENCES FOR  
 PROBATION-ELIGIBLE FELONS BY CRIME TYPE AND YEAR  
 UPSTATE URBAN

	1982		1983		1984		1985		1986		FIVE-YEAR TOTAL	
	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT
ROBBERY	111	8.13%	97	6.41%	96	6.06%	94	5.56%	102	5.44%	500	6.23%
BURGLARY	363	26.59%	343	22.67%	333	21.01%	319	18.85%	318	16.97%	1676	20.87%
ASSAULT	74	5.42%	101	6.68%	105	6.62%	119	7.03%	145	7.74%	544	6.78%
WEAPONS	27	1.98%	27	1.78%	34	2.15%	22	1.30%	41	2.19%	151	1.88%
LARCENY	138	10.11%	162	10.71%	165	10.41%	193	11.41%	196	10.46%	854	10.64%
DRUG	83	6.08%	111	7.34%	116	7.32%	145	8.57%	168	8.96%	623	7.76%
SEX	55	4.03%	58	3.83%	85	5.36%	112	6.62%	103	5.50%	413	5.14%
CPSP	44	3.22%	73	4.82%	58	3.66%	62	3.66%	89	4.75%	326	4.06%
DWI	294	21.54%	336	22.21%	401	25.30%	441	26.06%	484	25.83%	1956	24.36%
OTHER	176	12.89%	205	13.55%	191	12.05%	185	10.93%	228	12.17%	985	12.27%
TOTAL	1365		1513		1585		1692		1874		8029	

	1982		1983		1984		1985		1986		FIVE-YEAR TOTAL	
	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION
ROBBERY	35	76	30	67	19	77	26	68	22	80	132	368
BURGLARY	60	303	49	294	49	284	54	265	54	264	266	1410
ASSAULT	21	53	18	83	24	81	26	93	28	117	117	427
WEAPONS	6	21	2	25	5	29	3	19	7	34	23	128
LARCENY	8	130	6	156	14	151	22	171	22	174	72	782
DRUG	2	81	4	107	13	103	4	141	7	161	38	593
SEX	12	43	8	50	19	66	19	93	20	83	78	335
CPSP	5	39	12	61	11	47	15	47	13	76	56	270
DWI	4	290	2	334	8	393	4	437	9	475	27	1929
OTHER	14	162	24	181	30	161	23	162	22	206	113	872
TOTAL	167	1198	155	1358	193	1392	196	1496	204	1670	915	7114

	1982	1983	1984	1985	1986	TOTAL
	RATIO	RATIO	RATIO	RATIO	RATIO	RATIO
ROBBERY	2.17	2.23	4.05	2.62	3.64	2.79
BURGLARY	5.05	6.00	5.00	4.91	4.89	5.30
ASSAULT	2.52	4.61	3.38	3.58	4.18	3.65
WEAPONS	3.50	12.50	5.00	6.33	4.86	5.57
LARCENY	16.25	26.00	10.79	7.77	7.91	10.86
DRUG	40.50	26.75	7.92	35.25	23.00	19.77
SEX	3.58	6.25	3.47	4.89	4.15	4.29
CPSP	7.00	5.00	4.27	3.13	5.05	4.82
DWI	72.50	167.00	49.13	109.25	52.70	71.44
OTHER	11.57	7.54	5.37	7.04	9.36	7.72
TOTAL	7.17	8.76	7.21	7.63	8.19	7.77

TABLE 2E  
PRISON AND PROBATION SENTENCES FOR  
PROBATION-ELIGIBLE FELONS BY CRIME TYPE AND YEAR  
URBAN/RURAL

	1982		1983		1984		1985		1986		FIVE-YEAR TOTAL	
	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT
ROBBERY	80	4.70%	92	4.91%	101	4.80%	72	2.95%	73	3.38%	418	4.86%
BURGLARY	538	31.59%	542	28.94%	575	27.30%	488	19.99%	447	20.69%	2598	25.19%
ASSAULT	84	4.93%	84	4.48%	95	4.51%	105	4.30%	97	4.49%	465	4.52%
WEAPONS	31	1.82%	21	1.12%	23	1.09%	41	1.68%	32	1.48%	148	1.44%
LARCENY	211	12.39%	169	9.02%	194	9.21%	254	10.41%	239	11.06%	1867	18.38%
DRUG	110	6.46%	165	8.81%	198	9.40%	255	10.45%	175	8.10%	903	8.78%
SEX	53	3.11%	74	3.95%	96	4.56%	140	5.74%	153	7.08%	516	5.02%
CPSP	61	3.58%	71	3.79%	76	3.61%	96	3.93%	71	3.29%	375	3.65%
DWI	317	18.61%	397	21.20%	496	23.55%	663	27.16%	597	27.64%	2470	24.02%
OTHER	218	12.80%	258	13.77%	253	12.01%	327	13.40%	276	12.78%	1332	12.95%
TOTAL	1703		1873		2106		2441		2168		10283	

	1982		1983		1984		1985		1986		FIVE-YEAR TOTAL	
	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION
ROBBERY	32	48	33	59	43	58	18	54	30	43	156	262
BURGLARY	102	436	87	455	77	498	75	413	93	354	434	2156
ASSAULT	29	55	21	63	31	64	18	87	27	70	126	339
WEAPONS	13	18	3	18	5	18	8	33	5	27	34	114
LARCENY	51	180	15	154	20	174	26	228	36	283	128	939
DRUG	15	95	19	146	20	178	24	231	19	156	97	806
SEX	13	40	29	45	35	61	34	106	48	105	159	357
CPSP	16	45	13	58	11	65	14	82	7	64	61	314
DWI	12	305	14	383	7	489	12	651	32	565	77	2393
OTHER	42	176	33	225	29	224	44	283	39	237	187	1145
TOTAL	305	1398	267	1686	277	1829	273	2168	336	1824	1458	8825

	1982	1983	1984	1985	1986	TOTAL
	RATIO	RATIO	RATIO	RATIO	RATIO	RATIO
ROBBERY	1.50	1.79	1.35	3.00	1.43	1.68
BURGLARY	4.27	5.23	6.47	5.51	3.81	4.97
ASSAULT	1.90	3.00	2.06	4.83	2.59	2.69
WEAPONS	1.38	6.00	3.68	4.13	5.40	3.35
LARCENY	5.81	10.27	8.70	8.77	5.64	7.34
DRUG	6.33	7.68	8.90	9.63	8.21	8.31
SEX	3.08	1.55	1.74	3.12	2.19	2.25
CPSP	2.81	4.46	5.91	5.86	9.14	5.15
DWI	25.42	27.36	69.86	54.25	17.66	31.88
OTHER	4.19	6.82	7.72	6.43	6.08	6.12
TOTAL	4.58	6.01	6.60	7.94	5.43	6.05

TABLE 2F  
 PRISON AND PROBATION SENTENCES FOR  
 PROBATION-ELIGIBLE FELONS BY CRIME TYPE AND YEAR  
 RURAL

	1982		1983		1984		1985		1986		FIVE-YEAR TOTAL	
	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT
ROBBERY	25	1.62%	48	2.78%	47	2.59%	33	1.75%	35	1.66%	188	2.86%
BURGLARY	459	29.82%	496	27.87%	435	23.99%	414	22.00%	448	20.81%	2244	24.58%
ASSAULT	63	4.89%	74	4.16%	79	4.36%	78	3.72%	68	3.22%	354	3.88%
WEAPONS	15	.97%	12	.67%	8	.44%	14	.74%	9	.43%	58	.64%
LARCENY	167	10.85%	168	8.99%	188	9.93%	192	10.28%	232	10.97%	931	10.28%
DRUG	69	4.48%	74	4.16%	65	3.59%	91	4.84%	98	4.64%	397	4.35%
SEX	72	4.68%	84	4.72%	103	5.68%	142	7.55%	176	8.33%	577	6.32%
CPSP	47	3.05%	62	3.48%	68	3.75%	69	3.67%	73	3.45%	319	3.49%
DWI	345	22.42%	522	29.33%	585	32.27%	628	32.94%	675	31.93%	2747	30.09%
OTHER	277	18.08%	248	13.93%	244	13.46%	237	12.59%	388	14.57%	1314	14.48%
TOTAL	1539		1788		1813		1882		2114		9128	

	1982		1983		1984		1985		1986		FIVE-YEAR TOTAL	
	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION
ROBBERY	8	17	15	33	13	34	15	18	21	14	72	116
BURGLARY	81	378	58	438	55	388	92	322	74	366	368	1884
ASSAULT	13	58	13	61	12	67	18	52	18	58	74	288
WEAPONS	2	13	2	18	1	7	2	12	3	6	18	48
LARCENY	16	151	9	151	5	175	28	172	25	287	75	856
DRUG	5	64	11	63	18	55	11	88	11	87	48	349
SEX	25	47	14	78	24	79	34	188	46	138	143	434
CPSP	6	41	11	51	18	58	17	52	14	59	58	261
DWI	8	337	12	518	22	563	16	684	18	657	76	2671
OTHER	25	252	48	288	45	199	41	196	55	253	286	1188
TOTAL	189	1358	185	1595	196	1617	266	1616	285	1829	1121	8887

	1982	1983	1984	1985	1986	TOTAL
	RATIO	RATIO	RATIO	RATIO	RATIO	RATIO
ROBBERY	2.13	2.28	2.62	1.28	.67	1.61
BURGLARY	4.67	7.55	6.91	3.58	4.95	5.23
ASSAULT	3.85	4.69	5.58	2.89	2.78	3.78
WEAPONS	6.58	5.88	7.88	6.88	2.88	4.88
LARCENY	9.44	16.78	35.88	8.68	8.28	11.41
DRUG	12.88	5.73	5.58	7.27	7.91	7.27
SEX	1.88	5.88	3.29	3.18	2.83	3.83
CPSP	6.83	4.64	5.88	3.86	4.21	4.58
DWI	42.13	42.58	25.59	37.75	36.58	35.14
OTHER	18.88	5.28	4.42	4.78	4.68	5.38
TOTAL	7.14	8.62	8.25	6.88	6.42	7.14

# PRISON AND PROBATION SENTENCES

FIVE-YEAR TOTAL

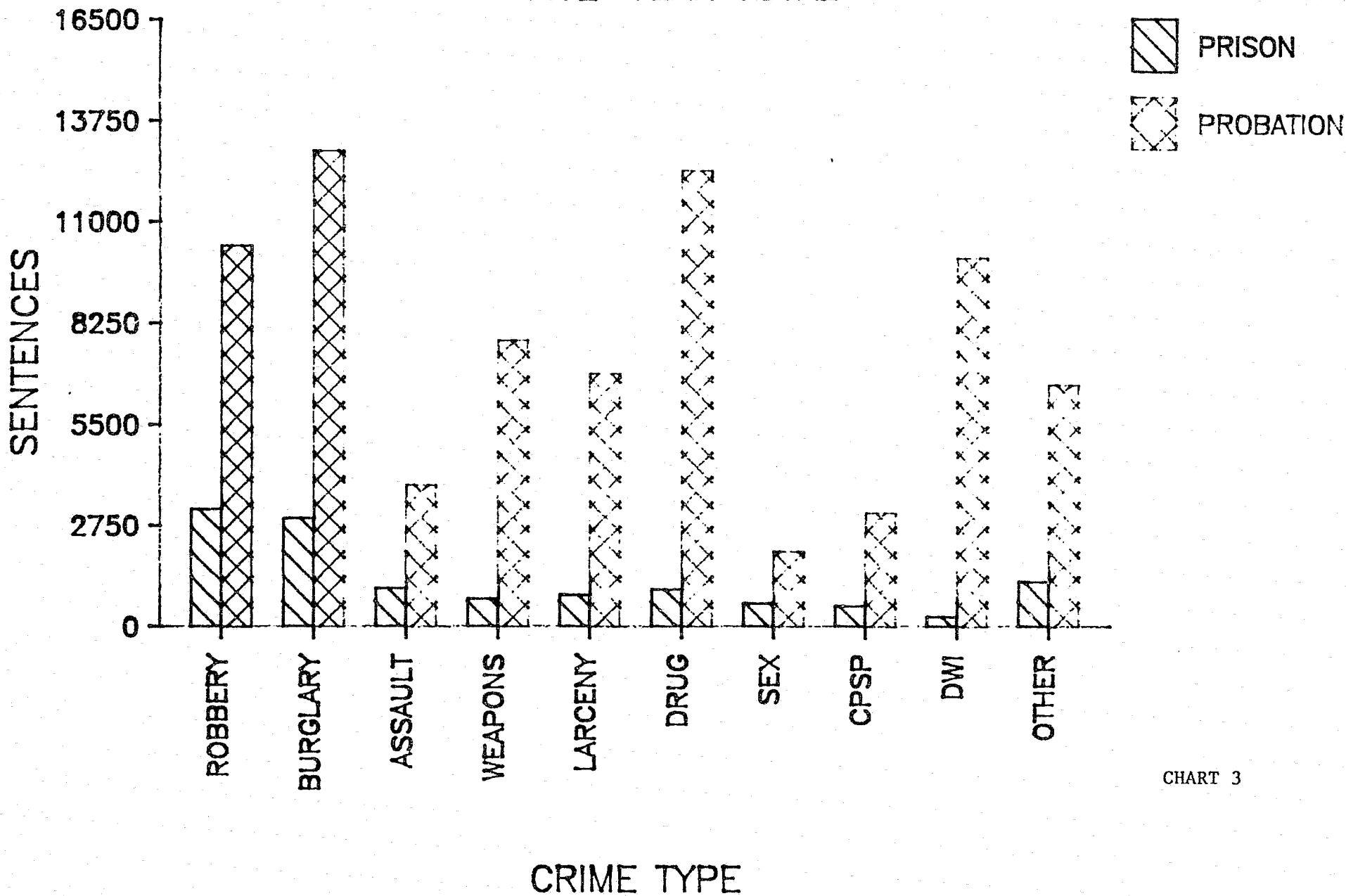


CHART 3



# PRISON:PROBATION RATIO FIVE-YEAR TOTAL

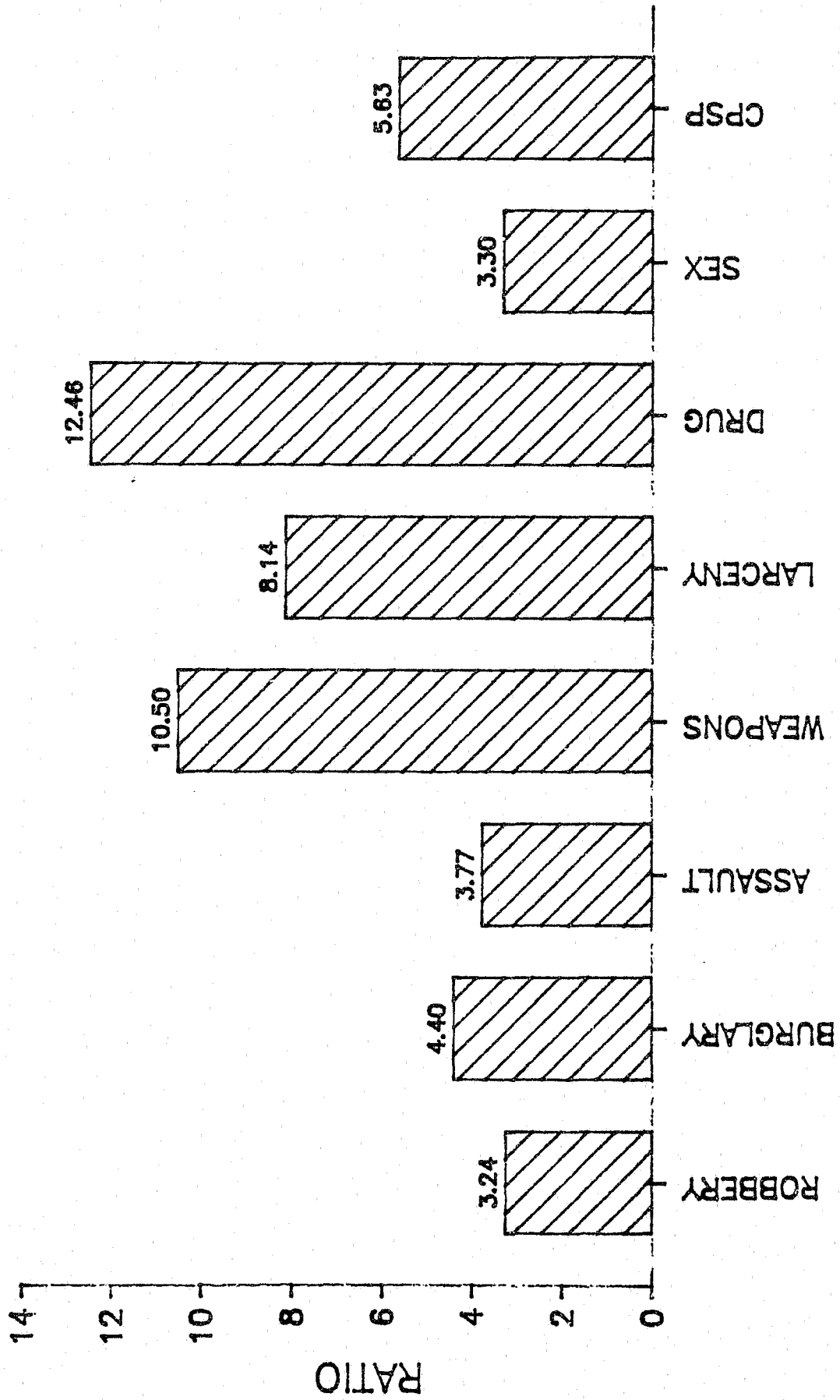


CHART 4

CRIME TYPE

# PRISON:PROBATION RATIO

## 1982-1986



offenses (3.30), assault (3.77) burglary (4.40), criminal possession of stolen property (5.63) and all other offenses (5.46) are the offense categories for which probation is used less frequently than the state-wide mean for all crimes of 6.19. Conversely, driving while intoxicated (DWI) (38.49) is, by far, the probation-eligible felony offense type for which probation is used most frequently. Other crime types for which probation is used more frequently than the aggregate state-wide mean are non-marijuana drug offenses (12.46), weapons offenses (10.50) and larceny offenses (8.14).

The data presented in Table 2A and displayed graphically in Chart 5 show the trend in the probation:prison ratio was not consistent over time among crime types. For example, the probation:prison ratio decreased between 1982 and 1986 for robbery (3.13 to 2.87), burglary (4.38 to 3.64), larceny (8.92 to 6.89), drugs (14.45 to 10.69), driving while intoxicated (43.41 to 29.63) and other offenses (6.09 to 5.14). Conversely, the ratio for the probation-eligible assault (3.11 to 3.93), weapons offenses (9.74 to 10.39), sex crimes (2.92 to 3.42) and criminal possession of stolen property (3.70 to 5.78) increased. The probation:prison ratio decreased between 1985 and 1986 for all crime types except weapons offenses.

Additionally, the composition of the probation-eligible felon group changed during the five-year period. For

example, in 1982 those convicted of robbery and burglary offenses accounted for 39.2 percent of all probation-eligible felons compared to 27.56 percent in 1986. On the other hand, the percent of all probation-eligible felons convicted of non-marijuana drug offenses and driving while intoxicated offenses increased from 20.8 percent in 1982 to 30.71 percent in 1986. Of particular interest, is the change in the composition of the probation-eligible pool of felons in New York City (see Table 2B). In 1982, those convicted of non-marijuana drug offenders accounted for 15.03 percent of all probation-eligible felons convicted in New York City. By 1986, those convicted of non-marijuana drug offenses accounted for 25.44 percent of all probation-eligible felons convicted in New York City. Such an increase places a burden on both the state's prison system and New York City's probation department. For example, the data show that 65 probation-eligible drug offenders were admitted to DOCS facilities in 1982. The number admitted to DOCS facilities increased to 256 by 1986. Similarly, the number of non-marijuana drug offenders received by the New York City Probation Department increased from 1,030 in 1982 to 2,593 in 1986.

The changes in the composition of the probation-eligible group could be attributed to a combination of changing crime rates and changes in law enforcement and prosecutorial practices. For example, the increase in the number of DWI felony convictions may be due to increased

attention on the part of police and prosecutors to the problem of drunk driving. The increase in the number of non-marijuana drug felony convictions may be due to the emergence of "crack" as a popular street drug and to increased attention on the part of law enforcement officials to the problem.

#### UI REGIONAL COMPARISONS

Overall, among the five UI regions of the state (see Table 3 and Charts 6, 7 and 8), the downstate urban region has the highest probation:prison ratio (8.92) followed by upstate urban (7.77), upstate rural (7.14), urban/rural mix (6.05) and New York City (5.30). Chart 8 displays the fluctuation in the probation:prison ratio for each of the five years within each urbanization region.

#### COMBINED EFFECT OF CRIME TYPE AND UI REGION

Taken alone, however, the regional probation:prison ratio is not an accurate measure of the relative utilization of probation in the five regions. The composition (see Table 4 and Chart 9) of the probation:prison felon population differs markedly by crime type between the various regions. For example, robbery (with a low probation:prison ratio) makes up 23.76 percent of all probation-eligible felonies in New York City, but only 2.06 percent in the upstate rural region. Driving while intoxicated felony offenders (with a high probation:prison ratio), on the other hand, comprise

TABLE 3  
PRISON AND PROBATION SENTENCES FOR  
PROBATION-ELIGIBLE FELONS BY REGION AND YEAR

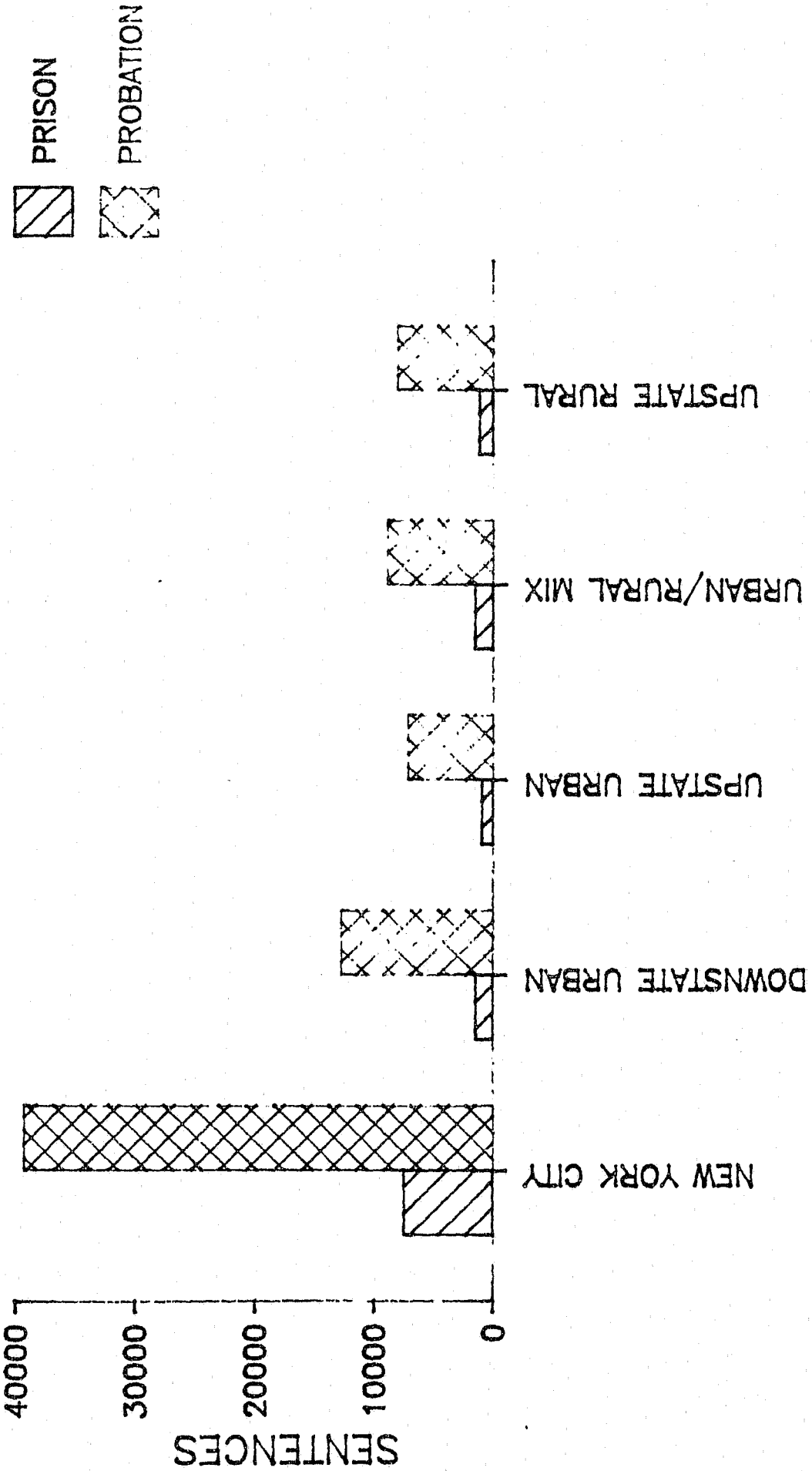
	1982		1983		1984		1985		1986		FIVE-YEAR TOTAL	
	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT
NEW YORK CITY	7287	58.63%	9317	54.18%	9157	51.98%	9761	51.87%	11198	55.16%	46720	52.88%
DOWNSTATE URBAN	2498	17.36%	2738	15.98%	2956	16.78%	3841	16.16%	2956	14.56%	14189	16.06%
UPSTATE URBAN	1365	9.48%	1513	8.79%	1585	9.00%	1692	8.99%	1874	9.23%	8829	9.89%
URBAN/RURAL MIX	1783	11.83%	1873	10.88%	2106	11.95%	2441	12.97%	2168	10.64%	10283	11.64%
UPSTATE RURAL	1539	10.69%	1788	10.34%	1813	10.29%	1882	10.00%	2114	10.41%	9128	10.33%
TOTAL	14392		17221		17617		18817		28382		88349	

	1982		1983		1984		1985		1986		FIVE-YEAR TOTAL	
	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION
NEW YORK CITY	1212	6875	1454	7863	1448	7717	1452	8389	1863	9335	7421	39299
DOWNSTATE URBAN	286	2212	251	2487	312	2644	292	2749	298	2666	1431	12758
UPSTATE URBAN	167	1198	155	1358	193	1392	196	1496	284	1678	915	7114
URBAN/RURAL MIX	385	1398	267	1686	277	1829	273	2168	336	1824	1458	8825
UPSTATE RURAL	189	1358	185	1595	196	1617	266	1616	285	1829	1121	8887
TOTAL	2159	12233	2312	14989	2418	15199	2479	16338	2978	17324	12346	76883

	1982		1983		1984		1985		1986		TOTAL
	RATIO		RATIO		RATIO		RATIO		RATIO		RATIO
NEW YORK CITY	5.81		5.41		5.36		5.72		5.81		5.38
DOWNSTATE URBAN	7.73		9.91		8.47		9.41		9.19		8.92
UPSTATE URBAN	7.17		8.76		7.21		7.63		8.19		7.77
URBAN/RURAL MIX	4.58		6.81		6.68		7.94		5.43		6.85
UPSTATE RURAL	7.14		8.62		8.25		6.88		6.42		7.14
TOTAL	5.67		6.45		6.29		6.59		5.82		6.16

# PRISON AND PROBATION SENTENCES

FIVE-YEAR TOTAL



# PRISON:PROBATION RATIO

FIVE-YEAR TOTAL

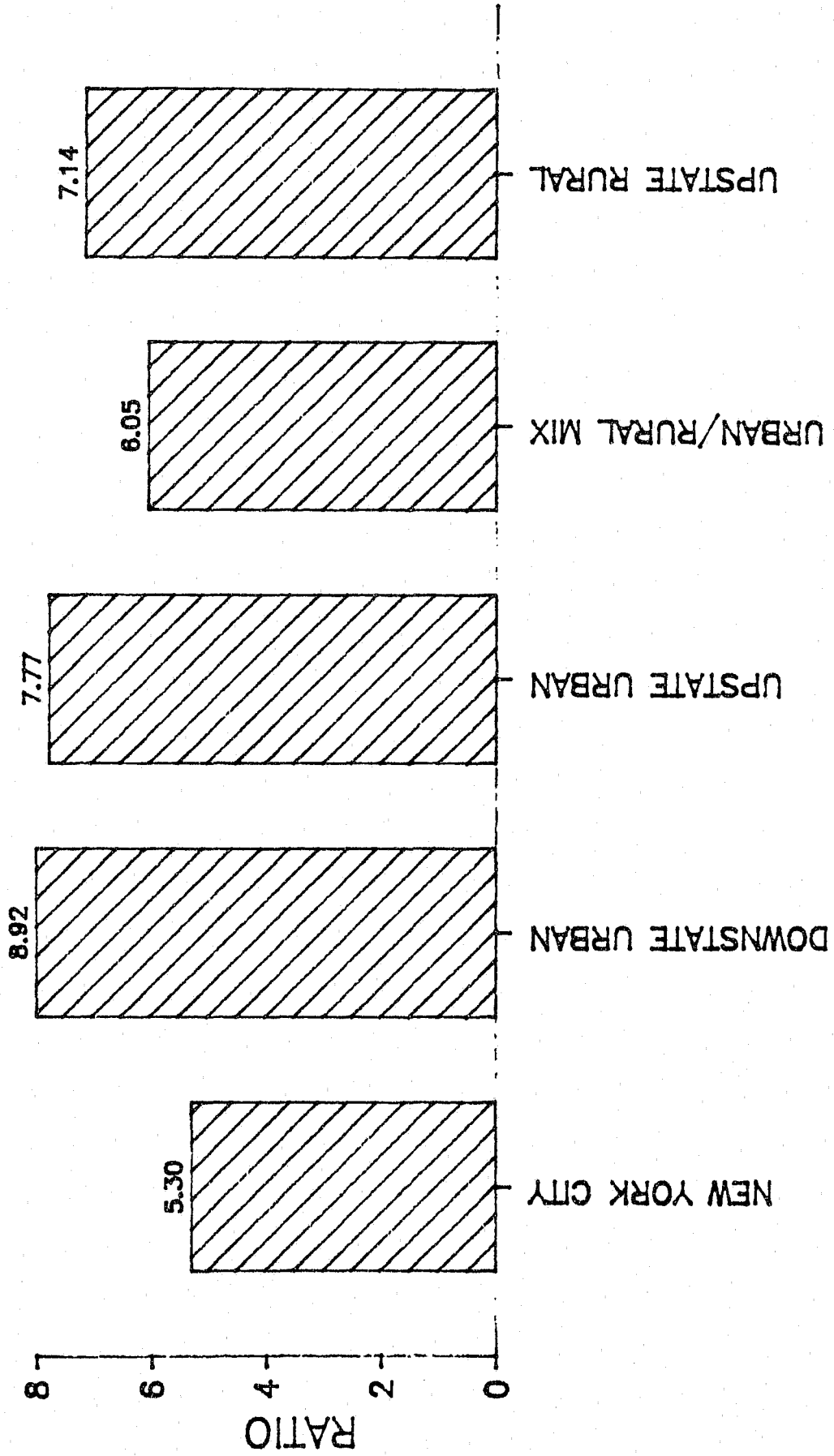


CHART 7

REGION



# PRISON:PROBATION RATIO

1982-1986

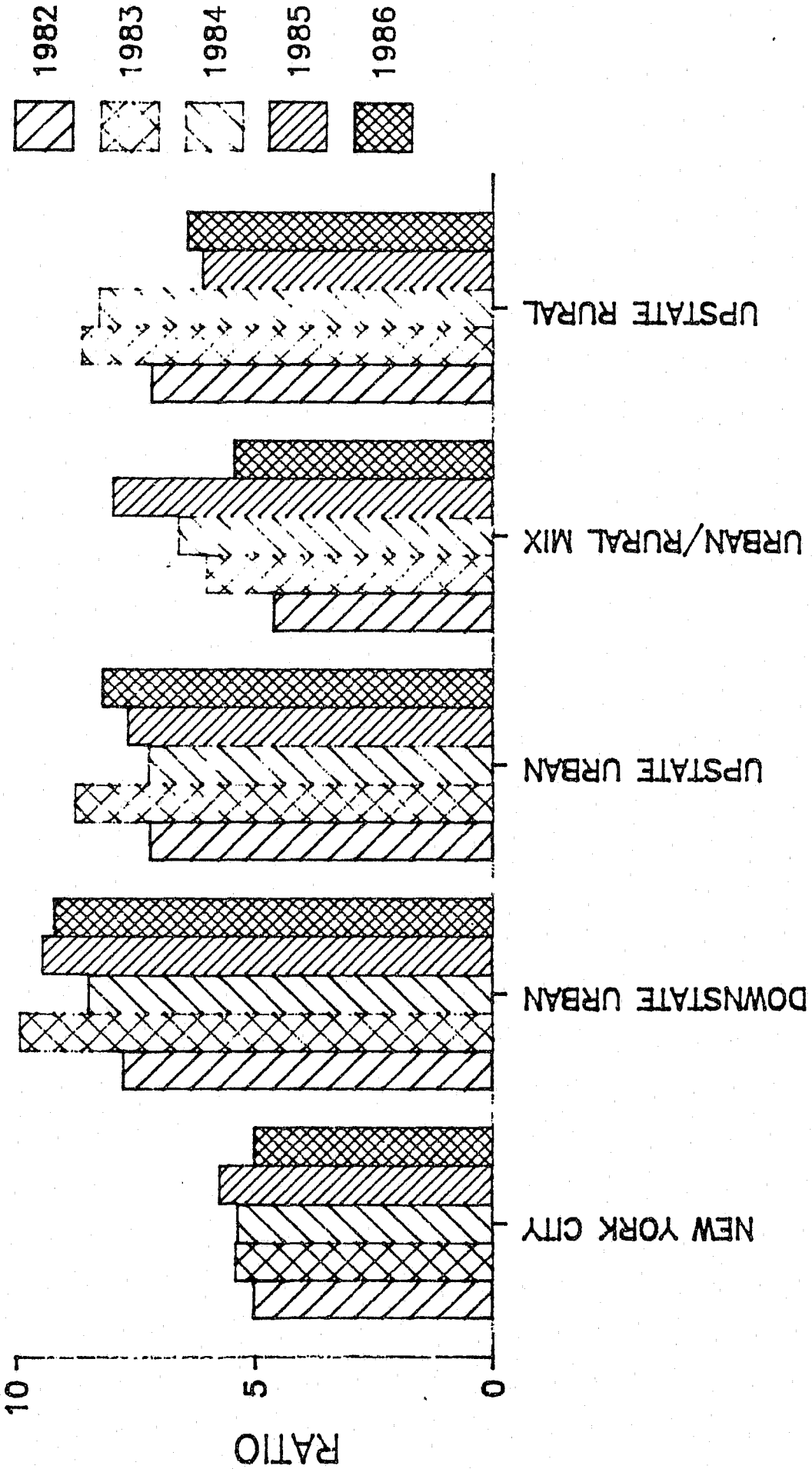


TABLE 4  
PRISON AND PROBATION SENTENCES FOR  
PROBATION-ELIGIBLE FELONS BY REGION AND CRIME TYPE

	NEW YORK CITY		DOWNSTATE URBAN		UPSTATE URBAN		URBAN/RURAL MIX		UPSTATE RURAL		STATE-WIDE TOTAL	
	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT	TOTAL	PERCENT
ROBBERY	11101	23.76%	1292	9.11%	500	6.23%	418	4.06%	108	2.06%	13499	15.28%
BURGLARY	5871	12.57%	3505	24.70%	1676	20.87%	2590	25.19%	2244	24.58%	15086	17.98%
ASSAULT	2762	5.91%	770	5.43%	544	6.78%	465	4.52%	354	3.88%	4895	5.54%
WEAPONS	7725	16.53%	462	3.26%	151	1.88%	148	1.44%	58	.64%	8544	9.67%
LARCENY	3501	7.49%	1386	9.77%	854	10.64%	1067	10.30%	931	10.20%	7739	8.76%
DRUG OFFENSES	9458	20.24%	2009	14.16%	623	7.76%	903	8.78%	397	4.35%	13390	15.16%
SEX OFFENSES	798	1.71%	372	2.62%	413	5.14%	516	5.02%	577	6.32%	2676	3.03%
CPSP	2000	4.45%	561	3.95%	326	4.06%	375	3.65%	319	3.49%	3661	4.14%
DWI	730	1.58%	2356	16.60%	1956	24.36%	2470	24.02%	2747	30.09%	10267	11.62%
OTHER CRIMES	2685	5.75%	1477	10.41%	985	12.27%	1332	12.95%	1314	14.40%	7793	8.82%
TOTAL	46720		14189		8029		10283		9128		88349	

	NEW YORK CITY		DOWNSTATE URBAN		UPSTATE URBAN		URBAN/RURAL MIX		UPSTATE RURAL		STATE-WIDE TOTAL	
	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION	PRISON	PROBATION
ROBBERY	2593	8508	197	1095	132	360	156	262	72	116	3150	10349
BURGLARY	1494	4377	309	3116	266	1410	434	2156	360	1804	2943	12943
ASSAULT	601	2161	110	660	117	427	126	339	74	280	1020	3067
WEAPONS	621	7104	55	407	23	128	34	114	10	48	743	7001
LARCENY	445	3056	127	1259	72	782	120	939	75	856	847	6092
DRUG OFFENSES	711	8747	110	1899	30	593	97	806	48	349	996	12394
SEX OFFENSES	172	626	69	303	78	335	159	357	143	434	621	2055
CPSP	282	1790	95	466	56	270	61	314	58	261	552	3109
DWI	10	720	62	2294	27	1929	77	2393	76	2671	260	10007
OTHER CRIMES	403	2202	210	1259	113	872	107	1145	206	1100	1207	6506
TOTAL	7421	39299	1431	12750	915	7114	1450	8025	1121	8007	12346	76003

	NEW YORK CITY	DOWNSTATE	UPSTATE	URBAN/RURAL	UPSTATE	TOTAL
	RATIO	URBAN	URBAN	MIX	RURAL	RATIO
		RATIO	RATIO	RATIO	RATIO	
ROBBERY	3.20	5.56	2.79	1.60	1.61	3.29
BURGLARY	2.93	8.01	5.30	4.97	5.23	4.40
ASSAULT	3.60	6.00	3.65	2.69	3.70	3.76
WEAPONS	11.44	7.40	5.57	3.35	4.00	10.50
LARCENY	6.07	9.91	10.06	7.34	11.41	8.14
DRUG	12.30	17.26	19.77	8.31	7.27	12.44
SEX	3.64	4.39	4.29	2.25	3.03	3.31
CPSP	6.30	4.91	4.02	5.15	4.50	5.63
DWI	40.00	37.00	71.44	31.00	35.14	38.49
OTHER	4.56	5.70	7.72	6.12	5.30	5.46
TOTAL	5.30	8.92	7.77	6.05	7.14	6.16

# PRISON:PROBATION RATIO

## FIVE-YEAR TOTAL



30.09 percent of all probation-eligible felons in the upstate rural region and 24.02 percent in the upstate urban region, but only 1.58 percent of all probation-eligible felons in New York City. This difference in the mix of offense types in each region has an important effect on the overall probation:prison ratio for each region.

To determine the actual differences in the utilization of probation between regions, one needs to look at each crime type separately. Examining the regional differences in the probation:prison ratio while controlling for crime type, one discovers that the urban/rural region utilizes probation less for robbery, assault, weapons offenses, sex crimes and DWI while New York City has the lowest probation:prison ratio for burglary, larceny and other offenses. The upstate rural region has the lowest probation:prison ratio for criminal possession of stolen property offenses. The downstate urban region has the highest probation:prison ratio for robbery, burglary, assault and sex offenses while the upstate urban region has the highest probation:prison ratio for drug, other and driving while intoxicated offenses. New York City has the highest rates for weapons offenses and criminal possession of stolen property; the upstate rural region has the highest rate for larceny offenses.

Across regions in the state, the relative treatment of different crime types is similar. Robbery, burglary, assault

and sex offenses have lower probation:prison ratios in each of the regions than each region's mean ratio for all crimes. Larceny, drugs and driving while intoxicated probation-eligible felonies have probation:prison ratios greater than each region's overall ratio.

#### DIFFERENCES AMONG COUNTIES IN THE SAME UI REGION

In addition to the differences which exist among regions and among crime types, differences also exist between counties within the same region. Tables 5 and 6 show, respectively, the ratio for each county and the number of persons sentenced to prison and to probation for the five-year period.

Differences between counties within the same region are easily identified. The probation:prison ratio in New York City ranges from 2.81 (New York County) to 7.93 (Bronx); in the downstate urban region from 7.03 (Nassau) to 10.24 (Westchester); in the upstate urban region from 4.90 (Erie) to 11.66 (Onondaga); in the urban\rural region from 1.32 (Albany) to 17.92 (Rockland) and in the upstate rural region from 1.60 (Columbia) to 23.25 (Cattaragus).

The mixed urban\rural region provides the clearest example of the large differences which exist between counties in the treatment of probation-eligible felony offenders. The overall probation:prison ratio for the region is 6.05 and, as stated previously, ranges from 1.32 for

TABLE 5  
PROBATION: PRISON RATIO BY COUNTY AND YEAR

	1982	1983	1984	1985	1986	TOTAL
	RATIO	RATIO	RATIO	RATIO	RATIO	RATIO
KINGS	7.59	7.58	8.13	9.08	6.77	7.75
NEW YORK	2.98	3.00	2.89	2.52	2.75	2.81
QUEENS	3.63	4.64	5.55	6.15	4.99	5.00
RICHMOND	8.41	6.90	4.79	5.71	5.70	6.07
BRONX	7.29	7.97	7.30	9.76	7.50	7.93
REGIONAL TOTAL	5.01	5.41	5.36	5.72	5.01	5.30
NASSAU	5.80	7.66	7.10	7.92	6.86	7.03
SUFFOLK	10.50	9.95	8.92	10.67	10.26	10.02
WESTCHESTER	7.71	13.88	9.67	9.76	11.42	10.24
REGIONAL TOTAL	7.73	9.91	8.47	9.41	9.19	8.92
ERIE	3.86	4.52	5.59	5.33	5.23	4.90
MONROE	9.02	11.90	7.81	9.48	7.78	8.88
ONDONAGA	11.13	17.67	8.75	8.96	15.69	11.66
REGIONAL TOTAL	7.17	8.76	7.21	7.63	8.19	7.77
ALBANY	1.03	1.07	1.06	1.72	1.81	1.32
BROOME	12.79	10.50	14.20	11.50	6.47	10.13
CHEMUNG	5.95	14.36	5.72	9.33	7.71	7.80
DUTCHESS	8.77	12.86	15.50	21.25	15.77	14.71
NIAGARA	2.03	1.95	2.58	4.04	2.09	2.44
ONEIDA	16.91	14.86	9.64	11.35	8.21	11.15
ORANGE	4.90	14.58	7.60	22.75	8.00	9.72
RENSSELAER	5.20	13.25	13.60	8.54	7.91	8.27
ROCKLAND	9.16	35.17	27.20	21.92	12.47	17.92
SARATOGA	3.71	3.45	4.11	4.62	6.40	4.50
SCHENECTADY	5.40	31.33	27.50	18.86	7.23	12.17
ULSTER	9.64	6.61	12.88	5.45	3.96	6.43
REGIONAL TOTAL	4.58	6.01	6.60	7.94	5.43	6.05
ALLEGANY	9.33	17.00	10.33	7.00	14.50	10.82
CATTARAUGUS	28.50	62.00	28.50	23.00	11.40	23.25
CAYUGA	2.71	3.50	3.88	3.33	1.50	2.65
CHAUTAUQUA	5.44	22.50	17.33	7.78	12.50	10.03
CHENANGO	10.00	7.00	6.00	2.75	7.00	5.50
CLINTON	8.33	8.88	8.86	6.00	2.63	6.22
COLUMBIA	3.71	2.20	1.08	1.14	1.17	1.60
CORTLAND	3.00	2.92	2.54	1.30	3.58	2.50
DELAWARE	6.00	N/A	N/A	N/A	5.25	13.86
ESSEX	4.40	8.33	4.67	1.83	5.33	4.40
FRANKLIN	3.50	3.67	4.50	5.20	34.00	5.59
FULTON	3.00	3.57	3.63	1.88	2.13	2.69
GENESEE	7.00	16.33	6.80	9.67	10.67	9.60
GREENE	4.67	20.00	10.00	1.67	5.00	5.22
HAMILTON	N/A	2.00	.50	2.00	2.25	2.00
HERKIMER	N/A	33.00	11.00	5.00	9.67	10.92
JEFFERSON	13.67	15.60	69.00	9.25	8.00	11.89
LEWIS	5.50	N/A	N/A	11.00	6.00	10.17
LIVINGSTON	8.00	8.38	14.75	7.50	11.00	9.45
MADISON	50.00	13.40	12.00	14.40	21.25	16.48
MONTGOMERY	N/A	39.00	7.00	10.20	19.50	12.33
ONTARIO	20.25	8.82	11.20	11.11	23.17	13.23
ORLEANS	3.82	4.67	6.50	5.55	2.56	4.58
OSWEGO	6.00	13.57	5.36	8.08	8.54	7.82
OTSEGO	2.76	6.14	13.33	8.00	2.67	4.72
PUTNAM	14.00	9.75	15.00	6.71	6.89	8.84
ST. LAWRENCE	14.80	4.62	3.21	5.67	5.23	5.52
SCHOHARIE	2.75	3.50	6.00	3.25	21.00	4.73
SCHUYLER	10.00	N/A	N/A	N/A	5.00	13.00
SENECA	N/A	31.00	7.00	10.00	5.60	10.58
STEBEN	4.89	6.67	7.50	5.10	9.71	6.58
SULLIVAN	5.87	4.79	15.71	3.95	6.12	6.03
TIOGA	8.83	34.00	16.50	5.14	5.71	8.52
TOMPKINS	15.00	30.50	28.00	12.33	4.50	10.62
WARREN	2.00	3.80	4.40	11.00	3.50	4.09
WASHINGTON	6.00	32.00	8.67	28.00	6.00	12.22
WAYNE	22.00	14.67	34.33	26.00	19.20	21.76
WYOMING	2.00	N/A	15.00	6.00	5.80	6.85
YATES	6.00	16.00	22.00	N/A	12.00	16.80
REGIONAL TOTAL	7.14	8.62	8.25	6.08	6.42	7.14
TOTAL	5.67	6.45	6.29	6.59	5.82	6.16

TABLE 6  
PRISON AND PROBATION SENTENCES FOR  
PROBATION-ELIGIBLE FELONS BY COUNTY AND YEAR

	1982		1983		1984		1985		1986		TOTAL	
	PRISON	PROB	PRISON	PROB	PRISON	PROB	PRISON	PROB	PRISON	PROB	PRISON	PROB
KINGS	293	2224	387	2935	339	2755	309	2807	432	2926	1768	13647
NEW YORK	454	1351	527	1581	578	1671	635	1599	676	1861	2878	8863
QUEENS	248	988	288	1298	261	1449	261	1686	422	2185	1472	7358
RICHMOND	17	143	21	145	28	134	28	168	38	171	124	753
ROCKLAND	288	1457	239	1984	234	1788	219	2137	383	2272	1195	9478
REGIONAL TOTAL	1212	4875	1454	7863	1448	7717	1452	8389	1863	9335	7421	39299
MASSAU	122	788	182	781	111	788	186	848	113	775	554	3892
SUFFOLK	86	983	92	915	118	1853	183	1899	112	1149	511	5119
WESTCHESTER	78	681	57	791	83	883	83	818	65	742	366	3747
REGIONAL TOTAL	286	2212	251	2487	312	2644	292	2749	298	2666	1431	12758
ERIE	76	293	87	393	74	414	81	632	79	413	397	1945
MORRIS	51	468	41	488	67	523	65	616	89	692	313	2779
ONEIDA	48	445	27	477	52	455	58	448	36	565	285	2398
REGIONAL TOTAL	167	1198	155	1358	193	1392	196	1496	204	1678	915	7114
ALBANY	113	116	128	128	97	183	95	163	186	192	531	782
BROOME	14	179	16	168	15	213	28	238	36	233	181	1823
CHEMUNG	28	119	11	158	25	143	12	112	14	188	82	648
DUTCHESS	13	114	14	188	14	217	12	255	13	285	64	971
NIAGARA	38	77	38	74	33	85	26	185	33	69	168	418
ONEIDA	11	186	14	288	22	212	17	193	29	238	93	1837
ORANGE	29	142	12	175	35	266	16	364	31	248	123	1195
RENSSELAER	15	78	4	53	5	68	13	111	11	87	48	397
ROCKLAND	19	174	6	211	18	272	13	285	15	187	63	1124
SARATOGA	7	26	11	38	9	37	13	68	18	64	58	225
SCHENECTADY	15	81	3	94	4	118	7	132	13	94	62	511
ULSTER	11	186	18	119	8	183	29	158	25	99	91	585
REGIONAL TOTAL	385	1398	267	1686	277	1829	273	2168	336	1824	1458	8825
ALLEGANY	3	28	1	17	3	31	2	14	2	29	11	119
CATTARAUGUS	2	57	1	62	2	57	2	46	5	57	12	279
CAYUGA	7	19	8	28	8	31	15	58	24	36	62	164
CHAUTAUGUS	9	49	2	43	3	52	9	78	6	75	29	291
CHEMANGO	1	18	1	7	1	6	4	11	3	21	18	55
CLINTON	9	75	8	71	7	62	5	38	16	42	45	288
COLUMBIA	7	26	18	22	12	13	21	24	12	14	62	99
CORTLAND	18	38	13	38	13	33	28	26	12	43	68	178
DELAWARE	3	18	8	28	8	14	8	24	4	21	7	97
ESSEX	5	22	3	25	3	14	6	11	3	16	28	88
FRANKLIN	4	14	6	22	6	27	5	26	1	34	22	123
FULTON	5	15	7	25	16	58	17	32	16	34	61	164
GENESEE	5	35	3	49	5	34	6	58	6	64	25	248
GREENE	3	14	1	28	2	28	6	18	6	38	18	94
HAMILTON	8	2	1	2	2	1	1	2	4	9	8	16
HERKIMER	8	17	1	33	2	22	6	38	3	29	12	131
JEFFERSON	6	82	5	78	1	69	12	111	14	112	38	452
LEWIS	2	11	8	11	8	18	1	11	3	18	6	61
LIVINGSTON	7	56	8	67	4	59	6	45	6	66	31	293
MADISON	1	58	5	67	6	72	5	72	4	85	21	346
MONTGOMERY	8	23	1	39	18	78	5	51	2	39	18	222
ONTARIO	4	81	11	97	18	112	9	188	6	139	48	529
ORLEANS	11	42	9	42	8	52	11	61	9	23	48	228
OSWEGO	18	68	7	95	14	75	12	97	13	111	56	438
OTSEGO	17	47	7	43	3	48	3	24	6	16	34	178
PUTNAM	2	28	4	39	3	45	7	47	9	62	25	221
ST. LAWRENCE	5	74	13	68	14	45	9	51	13	68	54	298
SCHOMARIE	4	11	4	14	2	12	4	13	1	21	15	71
SCHUYLER	1	18	8	18	8	6	8	11	3	15	4	52
SENECA	8	28	1	31	4	28	2	28	5	28	12	127
STEUEN	9	44	9	68	8	68	18	51	7	68	43	283
SULLIVAN	15	88	19	91	7	118	21	83	17	184	79	476
TIOGA	6	53	1	34	2	33	7	36	7	48	23	196
TOMPKINS	3	45	2	61	2	56	6	74	16	72	29	388
WARREN	5	18	5	19	5	22	2	22	6	21	23	94
WASHINGTON	1	6	1	32	3	26	1	28	3	18	9	118
WAYNE	3	66	6	88	3	183	4	184	5	96	21	457
WYOMING	3	6	8	15	1	15	4	24	5	29	13	89
YATES	1	6	1	16	1	22	8	16	2	24	5	84
REGIONAL TOTAL	189	1358	185	1595	196	1617	266	1616	285	1829	1121	8887
TOTAL	2159	12233	2312	14989	2418	15199	2479	16338	2978	17324	12346	76883

Albany County to 17.95 for Rockland County. The impact the differences in the ratio have on the number of persons sentenced to prison is vividly shown by comparing Albany County to four other counties with populations of similar size: Broome, Oneida, Orange and Rockland. Table 7 shows that while the five counties, during the five-year period, sentenced roughly the same number of probation-eligible felons to prison or to probation combined (from 1,318 to 1,124), the number receiving prison sentences varied considerably. The data show that 531 probation-eligible felons were committed to DOCS custody from Albany County during the five-year period compared to 101 from Broome County, 93 from Oneida County, 123 from Orange County and 63 from Rockland County.

#### STATEWIDE CONSISTENCIES

Returning to all counties in the state, the data also show that counties were consistent over time in their sentencing practices related to probation-eligible felons. Counties with low probation:prison ratios for the five years combined tend to have low probation:prison ratios for each year in the period. Likewise, counties with high probation:prison ratios overall have high probation:prison ratios for each of the years.

The data contained in Tables 8 and 9 show counties are generally consistent in their treatment of different crime types. Counties with low probation:prison ratios, relative



TABLE 7  
 VARIATION AMONG SELECTED COUNTIES  
 IN THE UTILIZATION OF PROBATION FOR  
 PROBATION-ELIGIBLE FELONS

COUNTY	1980 POPULATION	PRISON & PROBATION SENTENCES	PRISON SENTENCES	PROBATION SENTENCES	RATIO
ALBANY	285,909	1233	531	702	1.32
BROOME	213,648	1124	101	1023	10.13
ONIEDA	253,466	1130	93	1037	11.15
ORANGE	259,603	1318	123	1195	9.72
ROCKLAND	259,530	1192	63	1129	17.92

TABLE B  
PROBATION: PRISON RATIO BY CRIME TYPE AND COUNTY

	ROBBERY RATIO	BURGLARY RATIO	ASSAULT RATIO	WEAPONS RATIO	LARCENY RATIO	DRUGS RATIO	SEX RATIO	CPSP RATIO	DWI RATIO	OTHER RATIO	TOTAL RATIO
KINGS	4.47	4.27	5.64	15.64	14.31	22.84	4.41	7.82	16.58	6.89	7.75
NEW YORK	1.42	1.54	1.64	5.85	2.66	8.34	2.45	2.76	14.00	2.22	2.81
QUEENS	2.79	2.32	4.78	12.58	18.52	8.71	2.72	9.14	64.28	8.73	5.88
RICHMOND	3.66	3.95	6.11	15.67	18.28	19.33	1.56	8.88	8.88	5.25	6.87
BROX	5.22	4.28	4.88	16.23	25.84	15.53	4.81	18.85	N/A	4.88	7.93
REGIONAL TOTAL	3.28	2.93	3.68	11.44	6.87	12.38	3.63	6.37	48.88	4.56	5.38
NASSAU	3.93	5.66	3.68	5.98	9.33	17.65	3.24	4.87	22.72	5.87	7.83
SUFFOLK	6.98	11.65	8.34	8.88	11.48	24.21	4.73	3.48	38.81	5.43	18.82
WESTCHESTER	7.65	7.35	6.68	8.88	8.81	12.12	4.92	9.14	119.14	7.54	18.24
REGIONAL TOTAL	5.55	8.82	6.81	7.43	9.91	17.34	4.39	4.91	37.88	5.77	8.92
ERIE	2.18	3.35	2.79	3.82	8.86	18.11	2.67	3.87	92.58	3.47	4.98
MONROE	2.67	4.83	3.54	4.44	18.62	54.77	5.47	3.73	93.27	9.18	8.88
ONDAGA	4.67	11.92	5.39	9.68	14.35	26.25	5.58	11.88	34.88	18.88	11.66
REGIONAL TOTAL	2.79	5.38	3.65	5.57	18.86	19.99	4.29	4.83	71.44	7.74	7.77
ALBANY	.56	.85	1.87	.62	1.48	1.48	.66	.74	4.53	1.65	1.32
BROOME	4.88	12.71	2.15	N/A	8.58	21.88	3.88	8.25	85.33	8.98	18.13
CHEMUNG	3.54	11.86	2.92	.58	7.58	5.88	3.22	6.88	13.67	11.86	7.88
DUTCHESS	1.46	11.17	5.75	13.88	13.98	84.88	4.88	36.88	N/A	16.48	14.71
NIAGARA	.58	1.41	2.48	5.88	3.81	5.86	.95	3.48	75.88	4.31	2.44
ONEIDA	2.17	6.62	5.24	7.88	36.33	8.99	3.94	29.88	118.88	15.96	11.15
ORANGE	2.58	7.64	4.89	18.88	18.75	18.16	4.14	6.58	69.88	6.47	9.72
RENSSELAER	.88	4.21	2.58	N/A	51.88	N/A	3.68	28.88	34.67	18.58	8.27
ROCKLAND	4.35	8.28	3.97	22.88	21.57	58.95	3.65	59.88	143.58	22.65	17.92
SARATOGA	1.48	1.72	4.87	N/A	3.25	8.72	2.78	2.88	15.58	8.67	4.58
SCHENECTADY	7.79	15.18	5.89	.58	7.71	9.84	3.47	25.88	188.88	N/A	12.17
ULSTER	1.73	6.26	2.88	2.33	6.57	21.11	.85	9.58	37.68	4.73	6.43
REGIONAL TOTAL	1.68	4.97	2.69	3.35	7.34	8.31	2.24	5.15	31.88	6.14	6.85
ALLEGANY	N/A	3.29	2.88	N/A	24.88	N/A	6.88	N/A	N/A	18.88	18.82
CATTARAUGUS	N/A	15.75	8.88	N/A	16.88	N/A	6.58	N/A	98.88	23.58	23.25
CAYUGA	.24	1.69	2.46	N/A	18.58	N/A	2.26	3.95	5.44	1.41	2.65
CHAUTAUGUA	.63	5.67	N/A	N/A	12.58	28.88	N/A	16.88	N/A	28.88	18.83
CHEMUNGO	N/A	5.88	N/A	N/A	5.88	N/A	7.88	N/A	N/A	2.58	5.58
CLINTON	2.52	6.11	N/A	N/A	16.58	3.88	.77	4.42	86.88	3.66	6.22
COLUMBIA	N/A	.67	2.58	N/A	11.88	.78	.38	.58	8.58	1.77	1.68
CORTLAND	1.28	1.52	1.56	.58	3.88	6.88	2.92	1.49	6.11	2.72	2.58
DELAWARE	2.88	8.33	N/A	N/A	N/A	N/A	N/A	6.88	N/A	5.58	13.86
ESSEX	1.88	3.88	N/A	N/A	7.88	4.88	1.33	3.88	12.88	5.33	4.48
FRANKLIN	5.88	4.11	5.88	N/A	4.88	4.88	2.61	57.97	N/A	5.76	5.59
FULTON	1.88	2.52	1.25	N/A	3.48	3.88	.75	7.88	18.67	2.88	2.69
GENESEE	3.15	4.35	1.98	N/A	31.88	18.88	14.83	3.44	N/A	22.37	9.68
GREENE	3.88	21.88	3.88	N/A	4.88	N/A	.58	2.88	23.88	2.75	5.22
HAMILTON	N/A	5.88	N/A	N/A	1.88	N/A	N/A	N/A	N/A	1.67	2.88
HERKIMER	N/A	3.88	N/A	N/A	11.88	N/A	2.67	N/A	N/A	N/A	18.92
JEFFERSON	N/A	7.28	12.58	N/A	N/A	5.58	1.71	4.88	N/A	29.28	11.89
LEWIS	N/A	4.33	N/A	N/A	5.88	N/A	N/A	N/A	N/A	7.88	18.17
LIVINGSTON	2.56	6.68	8.42	N/A	48.88	6.88	2.87	72.46	15.88	6.74	9.45
MADISON	17.48	18.14	9.67	N/A	43.88	N/A	4.39	7.73	138.88	12.43	16.48
MONTGOMERY	8.78	16.86	18.29	N/A	27.88	7.88	4.68	3.91	78.88	5.73	12.33
ONTARIO	8.88	43.88	3.88	1.88	9.67	13.88	2.14	2.88	38.88	27.88	13.23
ORLEANS	.33	5.17	1.63	5.88	5.88	N/A	1.58	11.88	28.67	2.55	4.58
OSWEGO	5.12	6.16	5.88	.33	17.48	21.88	3.97	N/A	23.88	5.89	7.82
OTSEGO	.33	2.47	6.58	N/A	3.88	N/A	5.88	N/A	38.88	4.58	4.72
PUTNAM	.75	5.67	18.88	N/A	17.88	8.17	1.33	5.88	98.88	5.28	8.84
ST. LAWRENCE	.66	4.68	7.25	N/A	21.88	4.67	4.88	1.15	N/A	3.21	5.52
SCHOHARIE	N/A	2.33	.67	N/A	N/A	N/A	4.88	N/A	25.88	18.88	4.73
SCHUYLER	N/A	9.88	N/A	N/A	N/A	N/A	4.83	N/A	N/A	N/A	13.88
SENECA	N/A	3.83	2.98	N/A	N/A	N/A	5.88	N/A	41.88	29.81	18.58
STEUBEN	.67	5.88	3.58	N/A	5.88	5.88	1.81	6.88	23.48	18.68	6.58
SULLIVAN	2.76	4.89	1.62	.67	8.67	4.67	3.68	4.57	86.88	2.78	6.83
TIOGA	N/A	8.67	1.88	N/A	6.33	12.88	5.58	1.88	18.75	18.88	8.52
TOMPKINS	1.25	7.91	18.88	N/A	38.88	N/A	13.88	5.67	22.75	9.25	18.62
WARREN	.58	3.88	N/A	N/A	16.88	5.88	.75	N/A	33.88	1.11	4.89
WASHINGTON	2.88	2.58	3.88	N/A	N/A	N/A	8.88	N/A	66.88	12.88	12.22
WAYNE	6.88	24.88	18.88	N/A	N/A	N/A	N/A	N/A	N/A	2.85	21.76
WYOMING	N/A	2.57	N/A	N/A	9.88	N/A	4.88	N/A	43.88	4.58	6.85
YATES	N/A	9.58	3.88	N/A	N/A	N/A	2.58	N/A	N/A	N/A	16.88
REGIONAL TOTAL	1.61	5.23	3.81	4.88	11.41	7.27	3.84	4.54	35.14	5.38	7.14
TOTAL	3.29	4.48	3.76	18.58	8.14	12.45	3.31	5.64	38.49	5.46	6.16

TABLE 9  
PRISON AND PROBATION SENTENCES FOR  
PROBATION-ELIGIBLE FELONS BY CRIME TYPE AND COUNTY

	ROBBERY		BURGLARY		ASSAULT		WEAPONS		LARCENY		DRUGS		SEX		CPSD		DWI		OTHER		TOTAL	
	PRISON	PROB	PRISON	PROB	PRISON	PROB	PRISON	PROB	PRISON	PROB	PRISON	PROB	PRISON	PROB	PRISON	PROB	PRISON	PROB	PRISON	PROB	PRISON	PROB
KINGS	665	3636	391	1672	115	650	182	2848	67	959	104	2388	44	194	62	436	8	132	121	740	1760	13647
NEW YORK	1064	1512	423	651	231	379	249	1456	290	770	298	2487	26	64	105	290	4	56	179	398	2870	8063
QUEENS	453	1263	430	999	119	560	77	969	58	610	138	1198	46	124	81	738	5	321	66	576	1472	7358
RICHMOND	33	119	38	150	10	58	6	94	5	91	6	116	9	14	5	48	1	8	12	63	124	753
BRONX	379	1978	212	985	126	514	107	1737	25	626	165	2566	48	238	29	294	0	203	104	425	1195	9478
REGIONAL TOTAL	2593	8508	1494	4377	601	2161	621	7104	445	3056	711	8747	172	626	282	1798	18	720	483	2202	7421	39299
NASSAU	100	394	164	927	43	155	18	105	45	420	40	706	17	55	28	114	29	659	70	357	554	3892
SUFFOLK	55	376	125	1450	36	298	10	86	45	513	29	782	40	189	46	169	26	801	100	544	511	5119
WESTCHESTER	43	325	101	739	31	207	27	216	37	326	41	491	12	59	21	192	7	834	40	358	366	3747
REGIONAL TOTAL	197	1095	389	3116	110	660	55	407	127	1259	110	1899	69	303	95	466	62	2294	218	1259	1431	12758
ERIE	66	139	114	382	52	145	11	42	18	145	10	182	33	88	17	53	6	555	62	214	397	1945
MONROE	39	104	100	402	37	131	9	40	37	393	4	201	17	93	29	107	11	1026	31	282	313	2779
ONONDAGA	27	125	53	626	28	151	5	46	17	244	8	210	28	154	10	110	10	340	20	376	205	2390
REGIONAL TOTAL	132	368	266	1410	117	427	23	128	72	782	30	593	78	335	56	270	27	1929	113	872	915	7114
ALBANY	55	31	119	101	42	45	13	8	48	71	56	79	36	24	35	26	38	172	86	145	531	702
BROOME	4	16	21	267	13	28	0	7	13	109	3	63	19	57	4	33	3	256	21	187	101	1023
CHEMUNG	2	8	19	209	8	24	6	3	8	60	2	11	12	40	3	18	12	164	9	103	82	640
DUTCHESS	13	19	23	257	4	23	1	13	10	139	1	84	8	32	1	36	0	206	5	82	66	971
NIAGARA	26	15	68	96	10	24	1	5	16	61	7	41	21	20	5	17	1	75	13	56	168	410
ONEIDA	12	26	40	264	8	43	2	14	3	109	5	44	12	49	1	29	3	354	7	105	93	1037
ORANGE	22	57	38	294	11	54	3	30	4	75	9	172	11	46	4	26	5	345	15	96	123	1195
RENSSELAER	0	16	24	101	10	25	0	3	1	51	0	17	5	10	1	20	3	104	4	42	40	397
ROCKLAND	5	22	26	217	6	24	1	22	7	151	3	177	4	15	1	59	2	207	7	155	63	1129
SARATOGA	4	6	17	30	2	10	0	0	4	13	4	39	6	17	3	6	4	62	5	42	50	225
SCHENECTADY	4	32	10	151	5	26	4	2	7	54	3	29	7	25	1	25	1	100	0	67	42	511
ULSTER	8	14	27	169	6	13	3	7	7	46	2	50	17	14	2	19	5	180	14	65	91	585
REGIONAL TOTAL	156	262	434	2156	126	339	34	114	128	939	97	886	159	357	61	314	77	2393	187	1145	1458	8825

TABLE 9  
PRISON AND PROBATION SENTENCES FOR  
PROBATION-ELIGIBLE FELONS BY CRIME TYPE AND COUNTY

	ROBBERY		BURGLARY		ASSAULT		WEAPONS		LARCENY		DRUGS		SEX		CPSP		DWI		OTHER		TOTAL	
	PRISON	PROB	PRISON	PROB	PRISON	PROB	PRISON	PROB	PRISON	PROB	PRISON	PROB	PRISON	PROB	PRISON	PROB	PRISON	PROB	PRISON	PROB	PRISON	PROB
ALLEGANY	0	1	7	23	1	2	0	1	1	24	0	0	1	6	0	2	0	42	1	10	11	119
CATTARAUGUS	0	3	4	63	1	0	0	1	2	32	0	5	2	13	0	9	1	90	2	47	12	279
CAYUGA	4	1	25	43	2	5	0	1	2	21	0	3	7	16	3	12	9	49	9	13	62	164
CHAUTAUQUA	0	5	15	85	0	12	0	3	2	25	1	20	0	16	1	16	0	53	2	56	29	291
CHENANGO	0	4	2	10	4	0	0	0	1	5	0	3	1	7	0	0	0	21	2	5	10	55
CLINTON	3	0	10	64	0	9	0	3	2	33	3	9	9	7	2	9	1	86	14	52	45	200
COLUMBIA	6	0	12	0	4	10	0	1	1	11	10	7	0	3	4	2	4	34	13	23	62	99
CORTLAND	2	3	25	30	7	11	2	1	4	12	1	6	5	15	4	6	9	55	0	23	60	170
DELAWARE	1	2	3	25	0	9	0	2	0	13	0	9	0	11	1	6	0	9	2	11	7	97
ESSEX	1	1	0	31	0	3	0	0	2	14	1	4	3	4	1	3	1	12	3	16	20	80
FRANKLIN	0	1	9	39	1	6	0	0	2	0	1	4	3	0	0	2	0	25	5	30	22	123
FULTON	2	2	21	53	4	5	0	2	5	17	5	15	0	6	1	7	3	32	12	25	61	164
GENESEE	3	10	11	50	4	0	0	1	1	31	1	10	1	15	2	7	0	73	1	27	25	240
GREENE	1	3	1	21	2	6	0	2	3	12	0	7	2	1	4	0	1	23	4	11	18	94
HAMILTON	0	0	1	5	0	0	0	0	3	3	0	0	1	0	0	1	0	2	3	5	0	16
HERKIMER	0	0	7	21	0	4	0	2	2	22	0	7	3	0	0	9	0	44	0	14	12	131
JEFFERSON	0	3	10	72	2	25	0	1	0	39	2	11	14	24	5	24	0	107	5	146	30	452
LEWIS	0	1	3	13	0	4	0	0	2	10	0	0	0	6	0	0	0	20	1	7	6	61
LIVINGSTON	2	6	12	79	1	9	0	3	1	40	1	6	3	9	0	5	7	105	3	23	31	293
MADISON	0	3	0	86	1	10	0	4	1	43	0	0	7	31	1	0	1	130	1	15	21	346
MONTGOMERY	0	3	3	50	1	11	0	1	1	27	1	7	2	10	3	12	1	70	5	31	10	222
ONTARIO	1	0	3	129	4	12	1	1	3	29	1	13	14	30	3	6	0	247	2	54	40	529
ORLEANS	3	1	12	62	0	13	1	5	5	29	0	3	4	6	1	11	3	62	11	20	40	220
OSWEGO	1	6	19	120	1	6	3	1	5	07	1	21	10	40	0	0	4	92	11	57	56	430
OTSEGO	3	1	15	37	2	13	0	1	6	10	0	9	3	15	0	11	1	30	6	27	36	170
PUTNAM	4	3	3	17	1	10	0	0	1	17	6	49	3	4	1	5	1	90	5	26	25	221
ST. LAWRENCE	5	3	19	91	1	0	0	2	1	21	3	14	2	0	6	7	0	90	17	54	54	290
SCHOHARIE	0	1	6	14	3	2	0	0	0	10	0	5	1	4	3	0	1	25	1	10	15	71
SCHUYLER	1	0	1	9	0	0	0	0	0	5	0	1	2	10	0	1	0	16	0	10	4	52
SENECA	2	0	5	21	1	3	0	0	0	6	0	2	1	5	0	0	2	82	0	0	12	127
STEBEN	6	4	14	70	2	7	0	1	4	20	1	5	6	11	1	6	5	117	4	42	43	203
SULLIVAN	2	6	22	110	0	13	3	2	6	52	6	20	5	10	5	23	2	172	19	52	79	476
TIOGA	0	2	6	52	3	3	0	0	3	19	1	12	2	11	2	2	4	75	2	20	23	196
TOMPKINS	4	5	11	07	1	10	0	1	1	30	0	17	1	13	3	17	4	91	4	37	29	300
WARREN	2	1	5	15	0	5	0	0	1	16	1	5	4	3	0	6	1	33	9	10	23	94
WASHINGTON	1	2	4	10	1	3	0	2	0	4	0	1	1	0	0	2	1	66	1	12	9	110
WAYNE	2	12	5	124	1	10	0	2	0	27	0	12	0	23	0	5	0	205	13	37	21	457
WYOMING	0	1	7	10	0	2	0	1	1	9	1	2	1	4	0	0	1	43	2	9	13	09
YATES	0	0	2	19	1	3	0	0	0	7	0	1	2	5	0	3	0	29	0	17	5	04
REGIONAL TOTAL	72	116	360	1804	74	200	10	40	75	056	40	349	143	434	50	261	76	2671	206	1100	1121	0007
TOTAL	3150	10349	2943	12943	1027	3067	743	7001	047	6092	995	12394	622	2055	552	3109	260	10007	1206	6506	12346	70003

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to other counties in the same region, tend to have lower probation:prison ratios for each crime type. Similarly, counties with high probation:prison ratios, compared to other counties in the same region, tend to have higher probation:prison ratios for all crimes.

### CONCLUSION

#### TREND

The examination shows that the utilization of probation for probation-eligible felons fluctuated during the five-year period studied. Overall, the probation:prison ratio was greater in 1986 than in 1982. The ratio was greater in 1986 than in 1982 in the downstate urban, upstate urban and urban/rural regions. In New York City the ratio was the same in 1986 as it was in 1982. The ratio in the upstate rural region was lower in 1986 than it was in 1982.

#### CRIME TYPE DIFFERENCES

Statewide there were differences in the utilization of probation based on crime type. Probation was used less frequently for probation-eligible felons convicted of robbery, sex offenses, assault, burglary and criminal possession of stolen property than for those convicted of larceny, drug offenses, weapons offenses and driving while intoxicated felony offenses.

## REGIONAL DIFFERENCES

There were also clear differences between regions in the state. After controlling for the variation in the mix of offense types, it was discovered that the mixed urban/rural region tended to utilize probation the least while the downstate urban counties of Westchester, Nassau and Suffolk tended to utilize probation the most.

## COUNTY DIFFERENCES

It was also discovered that differences existed between counties within the same region. Few differences were discovered within counties -- either over time or between crime types. Counties which utilized probation less frequently than other counties in the same region overall, also tended to utilize probation less frequently in each of the years studied and for each of the crime types examined. Likewise, counties which utilized probation to a greater degree than other counties tended to do so over time and for most crimes.

## SUMMARY

The information contained in this report should add to the understanding of sentencing practices involving probation-eligible felons in the state. Such an understanding is important in light of the state's established policy aimed at increasing the utility and availability of non-incarcerative alternative sanctions for

selected Class D and Class E probation-eligible, but prison-bound, felons. This information can be used by policy makers involved in developing and refining these programs to identify situations -- both state-wide and in specific counties -- where alternatives would have the greatest impact on reducing unnecessary incarceration.

APPENDIX 1



OFFENSE	CLASSIFICATION	PENAL LAW SECTION	PROBATION ELIGIBILITY	REFERENCE
Abortion 1°	Class D Felony	125.45	Yes	
Abortion 2°	Class E Felony	125.40	Yes	
Abortion, Issuing Articles	Class B Misdemeanor	125.60	Yes	
Abortion, self 1°	Class A Misdemeanor	125.55	Yes	
Abortion, self 2°	Class B Misdemeanor	125.50	Yes	
Absconding from Furlough Program	Class A Misdemeanor	205.18	Yes	
Absconding from Temporary Release 1°	Class E Felony	205.17	Yes	
Absconding from Temporary Release 2°	Class A Misdemeanor	205.16	Yes	
Accosting, Fraudulent	Class A Misdemeanor	165.30	Yes	
Adultery	Class B Misdemeanor	255.17	Yes	
Advertisements, Unlawful Posting	Violation	145.30	No	See Footnote (1)
Advertising, False	Class A Misdemeanor	190.20	Yes	
Anarchy, Criminal	Class E Felony	240.15	Yes	
Anti-Security item, Crim. Possession	Class B Misdemeanor	170.47	Yes	
Appearance ticket, failure to respond	Violation	215.58	No	See Footnote (1)
Arson 1°	Class A-1 Felony	150.20	No	See Penal Law §60.05(2)
Arson 2°	Class B Violent Felony	70.02(1)(a) 150.15	No	See Penal Law §60.05(3)
Arson 3°	Class C Felony	150.10	No	See Penal Law §60.05(4)
Arson 4°	Class E Felony	150.05	Yes	
Aggravated Assault, Peace Officer	Class B Violent Felony	70.02(1)(a) 120.11	No	See Penal Law §60.05(3)
Assault 1°	Class C Violent Felony	70.02(1)(b) 120.10	No	See Penal Law §60.05(4)
Assault 2°	Class D Violent Felony	70.02(1)(c) 120.05	Yes	"Shock" Probation Only; See Footnote (2); See Penal Law §§60.05(5), 60.01(2)(d), 70.00(4)

OFFENSE	CLASSIFICATION	PENAL LAW SECTION	PROBATION ELIGIBILITY	REFERENCE
Assault 3°	Class A Misdemeanor	120.00	Yes	
Attempt Arson 1°	Class B Violent Felony	70.02(1)(a)	No	See Penal Law §60.05(3)
Attempt Crim. Possession Drugs 1°	Class A-1 Felony	110.05(1)	No	See Penal Law §60.05(2)
Attempt Crim. Sale Drugs 1°	Class A-1 Felony	110.05(1)	No	See Penal Law §60.05(2)
Attempt Kidnapping 1°	Class B Violent Felony	70.02(1)(a)	No	See Penal Law §60.05(3)
Attempt Murder 1°	Class A-1 Felony	110.05(1)	No	See Penal Law §60.05(2)
Attempt Murder 2°	Class B Violent Felony	70.02(1)(a)	No	See Penal Law §60.05(3)
Attempt Class A-II Felony	Class A-II Felony	110.05(2)	No	Except as noted under "Drugs"; See P.L. §§60.05(2), 65.00(1)(b)
Attempt Class B Violent Felony	Class C Violent Felony	70.02(1)(b)	No	See Penal Law §60.05(4)
Attempt Class B Felony	Class C Felony	110.05(4)	Generally No	See Penal Law §60.05(4)
Attempt Class C Violent Felony	Class D Violent Felony	70.02(1)(c)	Yes	See Footnote (3)
Attempt Class C Felony	Class D Felony	110.05(5)	Generally Yes	Except Attempt promoting prostitution 2°. See Penal Law §60.05(5).
Attempt Class D Violent Handgun Felony, on a plea	Class E Violent Felony	70.02(1)(d)	Generally Yes	Absent a Class A misdemeanor conviction during past 5 years with or without mitigation. See Penal Law §70.02(2)(c)(11) and (5).
Attempt any other Class D Felony	Class E Felony	110.05(6)	Yes	
Attempt Class E Felony	Class A Misdemeanor	110.05(7)	Yes	
Attempt any Misdemeanor	Class B Misdemeanor	110.05(8)	Yes	
Bad Checks, Issuing	Class B Misdemeanor	190.05	Yes	
Bail Jumping 1°	Class D Felony	215.57	Yes	
Bail Jumping 2°	Class E Felony	215.56	Yes	
Bail Jumping 3°	Class A Misdemeanor	215.55	Yes	
Bigamy	Class E Felony	255.15	Yes	
Body Vest, Unlawful Wearing	Class E Felony	270.20	Yes	

OFFENSE	CLASSIFICATION	PENAL LAW SECTION	PROBATION ELIGIBILITY	REFERENCE
Bribery 1°	Class B Felony	200.04	No	See Penal Law §60.05(3)
Bribery 2°	Class D Felony	200.00	Yes	
Bribing (Commercial) 1°	Class E Felony	180.03	Yes	
Bribing (Commercial) 2°	Class A Misdemeanor	180.00	Yes	
Bribing Juror	Class D Felony	215.19	Yes	
Bribing Labor Official	Class D Felony	180.15	Yes	
Bribing (Sports)	Class D Felony	180.40	Yes	
Bribing, to Obtain Public Office	Class D Felony	200.45	Yes	
Bribing Witness	Class D Felony	215.00	Yes	
Bribe Receiving 1°	Class B Felony	200.12	No	See Penal Law §60.05(3)
Bribe Receiving 2°	Class D Felony	200.10	Yes	
Bribe Receiving (Commercial) 1°	Class E Felony	180.08	Yes	
Bribe Receiving (Commercial) 2°	Class A Misdemeanor	180.05	Yes	
Bribe Receiving, for Public Office	Class D Felony	200.50	Yes	
Bribe Receiving (Juror)	Class D Felony	215.20	Yes	
Bribe Receiving (Labor Official)	Class D Felony	180.25	Yes	
Bribe Receiving (Sports)	Class E Felony	180.45	Yes	
Bribe Receiving (Witness)	Class D Felony	215.05	Yes	
Bullet Wounds, Failure to Report	Class A Misdemeanor	265.25	Yes	
Burglar's Tools	Class A Misdemeanor	140.35	Yes	
Burglary 1°	Class B Violent Felony	70.02(1)(a)	No	
		140.30		See Penal Law §60.05(3)
Burglary 2°	Class C Violent Felony	70.02(1)(b)	No	
		140.25		See Penal Law §60.05(4)
Burglary 3°	Class D Felony	140.20	Yes	
Business Records, Falsifying 1°	Class E Felony	175.10	Yes	
Business Records, Falsifying 2°	Class A Misdemeanor	175.05	Yes	

OFFENSE	CLASSIFICATION	PENAL LAW SECTION	PROBATION ELIGIBILITY	REFERENCE
Child, Abandonment	Class E Felony	260.00	Yes	
Child, Endangering Welfare	Class A Misdemeanor	260.10	Yes	
Child, Non-Support	Class A Misdemeanor	260.05	Yes	
Child, Unlawfully Dealing With	Class B Misdemeanor	260.20	Yes	
Child, Use in Sex Performance	Class C Felony	263.05	Yes	
Promoting Sex Performance	Class D Felony	263.15	Yes	
Promoting Obscene Sex Performance	Class D Felony	263.10	Yes	
Coercion 1°	Class D Felony	135.65	Yes	
Coercion 2°	Class A Misdemeanor	135.60	Yes	
Collection Practices, Unlawful	Class B Misdemeanor	190.50	Yes	
Communications Information, Unlawfully				
Obtaining	Class B Misdemeanor	250.30	Yes	
Compounding a Crime	Class A Misdemeanor	215.45	Yes	
Conditional Sale Property, Fraudulent				
Disposition	Class A Misdemeanor	185.15	Yes	
Consensual Sodomy	Class B Misdemeanor	130.38	Yes	
Conspiracy 1°	Class A-I Felony	105.17	No	See Penal Law §60.05(2)
Conspiracy 2°	Class B Felony	105.15	No	See Penal Law §60.05(3)
Conspiracy 3°	Class D Felony	105.13	Yes	
Conspiracy 4°	Class E Felony	105.10	Yes	
Conspiracy 5°	Class A Misdemeanor	105.05	Yes	
Conspiracy 6°	Class B Misdemeanor	105.00	Yes	
Contempt, Criminal 1°	Class E Felony	215.51	Yes	
Contempt, Criminal 2°	Class A Misdemeanor	215.50	Yes	
Contempt of Legislature	Class A Misdemeanor	215.60	Yes	
Contempt of State Commission on Judicial				
Conduct	Class A Misdemeanor	215.66	Yes	

OFFENSE	CLASSIFICATION	PENAL LAW SECTION	PROBATION ELIGIBILITY	REFERENCE
Contempt of Temporary State Commission	Class A Misdemeanor	215.65	Yes	
Corporate Officials, Misconduct	Class B Misdemeanor	190.35	Yes	
Credit Card, Unlawful Use	Class A Misdemeanor	165.17	Yes	
Credit Cards, Making False Statement	Class A Misdemeanor	190.55	Yes	
Criminal Communications, Failure to Report	Class B Misdemeanor	250.35	Yes	
Criminal Facilitation 1°	Class B Felony	115.08	No	See Penal Law §60.05(3)
Criminal Facilitation 2°	Class C Felony	115.05	Yes	
Criminal Facilitation 3°	Class E Felony	115.01	Yes	
Criminal Facilitation 4°	Class A Misdemeanor	115.00	Yes	
Criminal Mischief 1°	Class B Felony	145.12	No	See Penal Law §60.05(3)
Criminal Mischief 2°	Class D Felony	145.10	Yes	
Criminal Mischief 3°	Class E Felony	145.05	Yes	
Criminal Mischief 4°	Class A Misdemeanor	145.00	Yes	
Criminal Possession Stolen Property 1°	Class D Felony	165.50	Yes	
Criminal Possession Stolen Property 2°	Class E Felony	165.45	Yes	
Criminal Possession Stolen Property 3°	Class A Misdemeanor	165.40	Yes	
Criminal Simulation (see also Forgery)	Class A Misdemeanor	170.45	Yes	
Criminal Solicitation 1°	Class C Felony	100.13	Yes	
Criminal Solicitation 2°	Class D Felony	100.10	Yes	
Criminal Solicitation 3°	Class E Felony	100.08	Yes	
Criminal Solicitation 4°	Class A Misdemeanor	100.05	Yes	
Criminal Solicitation 5°	Violation	100.00	No	See Footnote (1)
Criminal Tampering 1°	Class D Felony	145.20	Yes	
Criminal Tampering 2°	Class A Misdemeanor	145.15	Yes	
Criminal Tampering 3°	Class B Misdemeanor	145.14	Yes	

OFFENSE	CLASSIFICATION	PENAL LAW SECTION	PROBATION ELIGIBILITY	REFERENCE	
Criminal Trespass 1°	Class D Felony	140.17	Yes		
Criminal Trespass 2°	Class A Misdemeanor	140.15	Yes		
Criminal Trespass 3°	Class B Misdemeanor	140.10	Yes		
Custodial Interference 1°	Class E Felony	135.50	Yes		
Custodial Interference 2°	Class A Misdemeanor	135.45	Yes		
Disorderly Conduct	Violation	240.20	No	See Footnote (1)	
Disorderly Conduct, Aggravated	Class A Misdemeanor	240.21	Yes		
Drugs, Criminal Possession 1°	Class A-I Felony	220.21	No	See Penal Law §60.05(2)	
	2°	Class A-II Felony	220.18	Generally	Except lifetime probation available for material assistance in investigation, apprehension or prosecution of a person on a drug felony (Art. 220) or the attempt or conspiracy to commit any such felony. See P.L. §§60.05(2), 65.00(1)(b), 65.00(3)(a)(ii).
Note: Marihuans excluded. 3°	Class B Felony	220.16	No		
See this chart for Marihuana offenses.					
	4°	Class C Felony	220.09	Generally	Shock probation only available in certain instances; See Footnote (2); See P.L. §§60.01(2)(d), 60.05(4), 70.00.
	5°	Class D Felony	220.06	Yes	
	6°	Class E Felony	220.05	Yes	
	7°	Class A Misdemeanor	220.03	Yes	
Criminal Sale 1°	Class A-I Felony	220.43	No	See Penal Law §60.05(2).	
	2°	Class A-II Felony	220.41	Generally	Except lifetime probation available for material assistance in investigation, apprehension or prosecution of a person on a drug felony (Art. 220) or the attempt or conspiracy to commit any such felony. See P.L. §§60.05(3), 65.00(1)(b), 65.00(3)(a)(ii).
(Marihuana excluded)	3°	Class B Felony	220.39	No	

OFFENSE	CLASSIFICATION	PENAL LAW SECTION	PROBATION ELIGIBILITY	REFERENCE
Criminal Sale 4°	Class C Felony	220.34	Generally Yes	Shock probation only available in certain instances; See Footnote (2); See P.L. §§60.01(2)(d), 60.05(4), 70.00.
5°	Class D Felony	220.31	Yes	
Drug Paraphenalia, Criminally Using 1°	Class D Felony	220.55	Yes	
2°	Class A Misdemeanor	220.50	Yes	
Drugs, Criminal Injection	Class E Felony	220.46	Yes	
Growing Cannabis (marihuana) 4°	Class A Misdemeanor	3382 PHL*	Yes	
Possession or sale of Hypodermic Instrument	Class A Misdemeanor	220.45/3381 PHL*	Yes	
Drugs, Possession of Precursors	Class E Felony	220.60	Yes	
Glue, Sniffing or Possession for Sniffing	Violation	3380(2), (3), (5)(a) PHL*	No	See Footnote (1)
Sale for Sniffing	Class A Misdemeanor	3380(4), (5)(b), (6)(b) PHL*	Yes	
Illegal Use & Sale of Nitrous Oxide	Class A Misdemeanor	3380(5), (6) PHL*	Yes	
Imitation Controlled Substance, Sale, Manufacture, Possession with Intent to Sell	Class A Misdemeanor	3383(2) PHL*	Yes	
Imitation Controlled Substance, Possession or Use of Equipment with Intent to Manufacture	Class A Misdemeanor	3383(3) PHL*	Yes	
Prior conviction of either offense within past five years	Class E Felony	3383(7) PHL*	Yes	

\* Public Health Law

OFFENSE	CLASSIFICATION	PENAL LAW SECTION	PROBATION ELIGIBILITY	REFERENCE
Loitering to Use Drugs				
Loitering 1°	Class B Misdemeanor	240.36	Yes	
Public Appearance Under Drugs	Violation	240.40	No	See Footnote (1)
Eavesdropping	Class E Felony	250.05	Yes	
Divulging Court Order	Class A Misdemeanor	250.20	Yes	
Failure to Report Wiretapping	Class B Misdemeanor	250.15	Yes	
Possession of Devices	Class A Misdemeanor	250.10	Yes	
Tampering with Private Communications	Class B Misdemeanor	250.25	Yes	
Employer Penalizing Witness	Class B Misdemeanor	215.14	Yes	
Escape 1°	Class D Felony	205.15	Yes	
2°	Class E Felony	205.10	Yes	
3°	Class A Misdemeanor	205.05	Yes	
Exhibitions, Offensive	Violation	245.05	No	See Footnote (1)
Exposure of a Person	Violation	245.01	No	See Footnote (1)
Exposure of a Person, Promoting	Violation	245.02	No	See Footnote (1)
False Certificate, Issuing	Class E Felony	175.40	Yes	
False Instruments				
Offering for Filing 1°	Class E Felony	175.35	Yes	
2°	Class A Misdemeanor	175.30	Yes	
Falsely Reporting Incident 1°	Class E Felony	240.60	Yes	
2°	Class A Misdemeanor	240.55	Yes	
3°	Class B Misdemeanor	240.50	Yes	
Financial Statement, Issuing False	Class A Misdemeanor	175.45	Yes	
Fire, Falsely Reporting	Class A Misdemeanor	240.50	Yes	
Firefighting Operations, Obstructing	Class A Misdemeanor	195.15	Yes	
Fireworks, Sale	Class B Misdemeanor	270.00(2)(a)	Yes	
Possession	Violation	270.00(2)(b)	No	See Footnote (1)



OFFENSE	CLASSIFICATION	PENAL LAW SECTION	PROBATION ELIGIBILITY	REFERENCE
Forgery 1°	Class C Felony	170.15	Yes	
2°	Class D Felony	170.10	Yes	
3°	Class A Misdemeanor	170.05	Yes	
Forgery - Criminal Possession of				
Forged Instrument 1°	Class C Felony	170.30	Yes	
2°	Class D Felony	170.25	Yes	
3°	Class A Misdemeanor	170.20	Yes	
Forgery Devices	Class D Felony	170.40	Yes	
Forgery - Criminal Simulation	Class A Misdemeanor	170.45	Yes	
Forgery Vehicle Identification No.	Class E Felony	170.65	Yes	
Fortune Telling	Class B Misdemeanor	165.35	Yes	
Gambling Device, Possession	Class A Misdemeanor	225.30	Yes	
Gambling, Promotion of 1°	Class E Felony	225.10	Yes	
2°	Class A Misdemeanor	225.05	Yes	
Gambling Records, Possession of 1°	Class E Felony	225.20	Yes	
2°	Class A Misdemeanor	225.15	Yes	
Grand Jury, Unlawful Disclosure	Class E Felony	215.70	Yes	
Grand Larceny 1°	Class C Felony	155.40	Yes	
2°	Class D Felony	155.35	Yes	
3°	Class E Felony	155.30	Yes	
Gratuities, Giving Unlawful	Class A Misdemeanor	200.30	Yes	
Receiving Unlawful	Class A Misdemeanor	200.35	Yes	
Harassment	Violation	240.25	No	See Footnote (1)
Harassment, Aggravated 1°	Class E Felony	240.31	Yes	
Harassment, Aggravated 2°	Class A Misdemeanor	240.30	Yes	

OFFENSE	CLASSIFICATION	PENAL LAW SECTION	PROBATION ELIGIBILITY	REFERENCE
Hazards, Creating	Class B Misdemeanor	270.10	Yes	
Hazing	Class A Misdemeanor	120.16	Yes	
Homicide, Criminally Negligent	Class E Felony	125.10	Yes	
Impersonation, Criminal 1°	Class E Felony	190.26	Yes	
2°	Class A Misdemeanor	190.25	Yes	
Incest	Class E Felony	255.25	Yes	
Inciting to Riot	Class A Misdemeanor	240.08	Yes	
Incompetent Person, Endangering Welfare of	Class A Misdemeanor	260.25	Yes	
Indictment, Unlawful Disclosure	Class B Misdemeanor	215.75	Yes	
Insolvency, Fraudulent	Class A Misdemeanor	185.00	Yes	
Insurance Fraud 1°	Class D Felony	176.20	Yes	
2°	Class E Felony	176.15	Yes	
3°	Class A Misdemeanor	176.10	Yes	
Jostling	Class A Misdemeanor	165.25	Yes	
Jurors, Misconduct by	Class A Misdemeanor	215.30	Yes	
Kidnapping 1°	Class A-I Felony	135.25	No	See Penal Law §60.05(2)
2°	Class B Violent Felony	70.02(1)(a)		
		135.20	No	See Penal Law §60.05(3)
Lewdness, Public	Class B Misdemeanor	245.00	Yes	
Loitering	Violation	240.35	No	See Footnote (1)
Loitering to Use Drugs (Loitering 1°)	Class B Misdemeanor	240.36	Yes	
Loitering for Prostitution	Violation	240.37(2)	No	See Footnote (1)
Loitering for Prostitution Plus Prior Conviction of Certain Prost. Crimes	Class B Misdemeanor	240.37(2)	Yes	
Loitering to Promote Prostitution	Class A Misdemeanor	240.37(3)	Yes	

OFFENSE	CLASSIFICATION	PENAL LAW SECTION	PROBATION ELIGIBILITY	REFERENCE
Manslaughter 1°	Class B Violent Felony	70.02(1)(a) 125.20	No	See Penal Law §60.05(3)
2°	Class C Felony	125.15	Yes	
Marihuana, Unlawful Possession	Violation	221.05	No	See Footnote (1)
Criminal Possession 1°	Class C Felony	221.30	Yes	
2°	Class D Felony	221.25	Yes	
3°	Class E Felony	221.20	Yes	
4°	Class A Misdemeanor	221.15	Yes	
5°	Class B Misdemeanor	221.10	Yes	
Criminal Sale 1°	Class C Felony	221.55	Yes	
2°	Class D Felony	221.50	Yes	
3°	Class E Felony	221.45	Yes	
4°	Class A Misdemeanor	221.40	Yes	
5°	Class B Misdemeanor	221.35	Yes	
Marriage, Unlawfully Issuing Dissolution				
Decree	Class A Misdemeanor	255.05	Yes	
Unlawfully Procuring License	Class A Misdemeanor	255.10	Yes	
Unlawfully Solemnizing	Class A Misdemeanor	255.00	Yes	
Menacing	Class B Misdemeanor	120.15	Yes	
Misapplication of Property	Class A Misdemeanor	165.00	Yes	
Mortgaged Property, Fraudulent Disposition	Class A Misdemeanor	185.10	Yes	
Murder 1°	Class A-I Felony	125.27	No	See Penal Law §60.05(2)
2°	Class A-I Felony	125.25	No	See Penal Law §60.05(2)
Noxious Materials, Possession	Class B Misdemeanor	270.05	Yes	
Nuisance, Criminal	Class B Misdemeanor	240.45	Yes	

OFFENSE	CLASSIFICATION	PENAL LAW SECTION	PROBATION ELIGIBILITY	REFERENCE
Obscenity 1°	Class D Felony	235.07	Yes	
2°	Class E Felony	235.06	Yes	
3°	Class A Misdemeanor	235.05	Yes	
Obscenity - Disseminating Indecent				
Material to Minors	Class E Felony	235.21	Yes	
Obstructing Firefighting Operations	Class A Misdemeanor	195.15	Yes	
Obstructing Government Administration	1° Class E Felony	195.07	Yes	
	2° Class A Misdemeanor	195.05	Yes	
Offensive Exhibitions	Violation	245.05	No	See Footnote (1)
Official Misconduct	Class A Misdemeanor	195.00	Yes	
Receiving Reward For	1° Class C Felony	200.27	No	See Penal Law §60.05(4)
	2° Class E Felony	200.25	Yes	
Rewarding	1° Class C Felony	200.22	No	See Penal Law §60.05(4)
	2° Class E Felony	200.20	Yes	
Pari-Mutuel Betting				
Impairing Integrity	1° Class D Felony	180.53	Yes	
	2° Class E Felony	180.52	Yes	
Party Line, Refusing to Yield	Class B Misdemeanor	270.15	Yes	
Peace Officers, Refusing to Aid	Class B Misdemeanor	195.10	Yes	
Perjury	1° Class D Felony	210.15	Yes	
	2° Class E Felony	210.10	Yes	
	3° Class A Misdemeanor	210.05	Yes	
Perjury - False Sworn Statements	1° Class E Felony	210.40	Yes	
	2° Class A Misdemeanor	210.35	Yes	
	- False Written Statements	Class A Misdemeanor	210.45	Yes
Petit Larceny	Class A Misdemeanor	155.25	Yes	

OFFENSE	CLASSIFICATION	PENAL LAW SECTION	PROBATION ELIGIBILITY	REFERENCE
Prison Contraband, Promoting 1°	Class D Felony	205.25	Yes	
2°	Class A Misdemeanor	205.20	Yes	
Prosecution, Hindering 1°	Class D Felony	205.65	Yes	
2°	Class E Felony	205.60	Yes	
3°	Class A Misdemeanor	205.55	Yes	
Prostitutes, Patronizing 1°	Class D Felony	230.06	Yes	
2°	Class E Felony	230.05	Yes	
3°	Class A Misdemeanor	230.04	Yes	
4°	Class B Misdemeanor	230.03	Yes	
Prostitution	Class B Misdemeanor	230.00	Yes	
Prostitution, Permitting	Class B Misdemeanor	230.40	Yes	
Prostitution, Promoting 1°	Class B Felony	230.32	No	See Penal Law §60.05(3)
2°	Class C Felony	230.30	No	See Penal Law §60.05(4)
3°	Class D Felony	230.25	Yes	
4°	Class A Misdemeanor	230.20	Yes	
Public Appearance Under Drugs	Violation	240.40	No	
Public Records, Tampering 1°	Class D Felony	175.25	Yes	
2°	Class A Misdemeanor	175.20	Yes	
Radio Device, Unlawful Possession	Class B Misdemeanor	140.40	Yes	
Rape 1°	Class B Violent Felony	70.02(1)(a)		
		130.35	No	See Penal Law §60.05(3)
Rape 2°	Class D Felony	130.30	Yes	
Rape 3°	Class E Felony	130.25	Yes	
Reckless Endangerment 1°	Class D Felony	120.25	Yes	
Reckless Endangerment 2°	Class A Misdemeanor	120.20	Yes	
Reckless Endangerment of Property	Class B Misdemeanor	145.25	Yes	

OFFENSE	CLASSIFICATION	PENAL LAW SECTION	PROBATION ELIGIBILITY	REFERENCE
Rent Gouging	Class B Misdemeanor	180.55	Yes	
Resisting Arrest	Class A Misdemeanor	205.30	Yes	
Riot 1°	Class E Felony	240.06	Yes	
Riot 2°	Class A Misdemeanor	240.05	Yes	
Riot, Inciting to	Class A Misdemeanor	240.08	Yes	
Robbery 1°	Class B Violent Felony	70.02(1)(a)		
		160.15	No	See Penal Law §60.05(3)
Robbery 2°	Class C Violent Felony	70.02(1)(b)		
		160.10	No	See Penal Law §60.05(4)
Robbery 3°	Class D Felony	160.05	Yes	
Scheme to Defraud 1°	Class E Felony	190.65	Yes	
Scheme to Defraud 2°	Class A Misdemeanor	190.60	Yes	
Scientific Material (Secret), Unlawful Use	Class E Felony	165.07	Yes	
Security Interest, Fraud Involving	Class A Misdemeanor	185.05	Yes	
Sexual Abuse, Aggravated	Class B Violent Felony	70.02(1)(a)		
		130.70	No	See Penal Law §60.05(3)
Sexual Abuse 1°	Class D Violent Felony	70.02(1)(c)		
		130.65	Yes	See Penal Law §70.02(2)(b)
Sexual Abuse 2°	Class A Misdemeanor	130.60	Yes	
Sexual Abuse 3°	Class B Misdemeanor	130.55	Yes	
Sexual Material, Public Display	Class A Misdemeanor	245.11	Yes	
Sexual Misconduct	Class A Misdemeanor	130.20	Yes	
Signatures, Fraudulently Obtaining (see also Forgery)	Class A Misdemeanor	165.20	Yes	
Slugs, Unlawful Use 1°	Class E Felony	170.60	Yes	
Slugs, Unlawful Use 2°	Class B Misdemeanor	170.55	Yes	

OFFENSE	CLASSIFICATION	PENAL LAW SECTION	PROBATION ELIGIBILITY	REFERENCE
Sodomy 1°	Class B Violent Felony	70.02(1)(a)	No	See Penal Law §60.05(3)
		130.50		
Sodomy 2°	Class D Felony	130.45	Yes	
Sodomy 3°	Class E Felony	130.40	Yes	
Sodomy, Consensual	Class B Misdemeanor	130.38	Yes	
Sound Recordings				
Failure to Disclose Origin	Class A Misdemeanor	275.15	Yes	
Improper Stereo Labeling	Class A Misdemeanor	275.20	Yes	
Unauthorized Advertisement or Sale	Class A Misdemeanor	275.10	Yes	
Unauthorized Manufacture	Class E Felony	275.05	Yes	
Sports Contests, Tampering with 1°	Class E Felony	180.51	Yes	
	2°	Class A Misdemeanor	180.50	Yes
Substitution of Children	Class E Felony	135.55	Yes	
Suicide, Promoting Attempt	Class E Felony	120.30	Yes	
Tampering, Criminal 1°	Class D Felony	145.20	Yes	
	2°	Class A Misdemeanor	145.15	Yes
	3°	Class B Misdemeanor	145.14	Yes
Tampering with Juror	Class A Misdemeanor	215.25	Yes	
Tampering with Physical Evidence	Class E Felony	215.40	Yes	
Tampering with Private Communications	Class B Misdemeanor	250.25	Yes	
Tampering with Public Records 1°	Class D Felony	175.25	Yes	
	2°	Class A Misdemeanor	175.20	Yes
Tampering with Witness 1°	Class B Felony	215.13	No	See Penal Law §60.05(3)
	2°	Class D Felony	215.12	Yes
	3°	Class E Felony	215.11	Yes
	4°	Class A Misdemeanor	215.10	Yes
Theft of Services	Class A Misdemeanor	165.15	Yes	

OFFENSE	CLASSIFICATION	PENAL LAW SECTION	PROBATION ELIGIBILITY	REFERENCE
Trespass 4° (see also Criminal Trespass)	Violation	140.05	No	
Unauthorized Use of Vehicle 1°	Class D Felony	165.08	Yes	
	2°	165.06	Yes	
	3°	165.05	Yes	
Unlawful Assembly	Class B Misdemeanor	240.10	Yes	
Unlawful Imprisonment 1°	Class E Felony	135.10	Yes	
	2°	135.05	Yes	
Usury, Criminal 1°	Class C Felony	190.42	No	See Penal Law §60.05(4)
	2°	190.40	Yes	
Usurious Loan Records, Possession	Class A Misdemeanor	190.45	Yes	
<b>Vehicles</b>				
Auto Stripping 1°	Class E Felony	165.10	Yes	
	2°	165.09	Yes	
<b>Illegal Possession of Identification</b>				
Plate	Class E Felony	170.70	Yes	
Forgery, Identification Number	Class E Felony	170.65	Yes	
Vehicular Assault 1°	Class D Felony	120.04	Yes	
Vehicular Assault 2°	Class E Felony	120.03	Yes	
Vehicular Manslaughter 1°	Class C Felony	125.13	Yes	
Vehicular Manslaughter 2°	Class D Felony	125.12	Yes	
Driving While Impaired	Traffic Infraction	10.00(2)		
		1192(1) VTL*	No	See Footnote (1)
-----				
Multiple Convictions	Traffic Infraction	10.00(2)		
		510(2)(a)(v) VTL*	No	See Footnote (1)

\* Vehicle and Traffic Law



OFFENSE	CLASSIFICATION	PENAL LAW SECTION	PROBATION ELIGIBILITY	REFERENCE
Driving Intoxicated or Under Influence of Drugs	Unclassified Misdemeanor	§§55.10(2)(c), 70.15(3), 85.00(2)(a)(3), §§510(2)(a)(111), 1192(2)(3)(4),VTL*	Yes	See Penal Law §65.00(3)(d), Vehicle and Traffic Law §1192(5).
Same conviction with 10 years	Class E Felony	55.10(1) 1192(5) VTL*	Yes	See Vehicle and Traffic Law §§510(2)(a)(111), 1192(2)(3)(4)(5)(6).
Reckless Driving	Unclassified Misdemeanor	55.10(2)(c), 1190 VTL*	Yes	See Penal Law §§65.00(3)(d), 70.15(3), 85.00(2)(a)(3), Vehicle and Traffic Law §§1190 and 1801.
<b>Multiple Convictions</b>				
Unlicensed Operator	Traffic Infraction	10.00(2) §§155,509(1), 1800 VTL*	No	See Footnote (1)
Unregistered Vehicle	Traffic Infraction	10.00(2) §§155, 401(1)(18)VTL*	No	See Footnote (1)
No Insurance	Traffic Infraction	319 VTL*	No	See Footnote (1)
<b>Aggravated Unlicensed Operation</b>				
of a Motor Vehicle 1°	Class E Felony	511(3) VTL*	Yes	
2°	Unclassified Misdemeanor	511(2) VTL*	Yes	
3°	Traffic Infraction	511(1) VTL*	No	See Footnote (1)
Driving While Registration Suspended or Revoked	Unclassified Misdemeanor	55.10(2)(b) 512 VTL*	Yes	

\* Vehicle and Traffic Law

OFFENSE	CLASSIFICATION	PENAL LAW SECTION	PROBATION ELIGIBILITY	REFERENCE
Altering Plates or License; Presenting False License; Substitution in Tests; False Statements in License Applications	Unclassified Misdemeanor	55.10(2)(b) 392, 510(2) (a)(111), 1801 VTL	Yes	
Leaving Scene of Incident, Damage to Property	Traffic Infraction	85.00(2)(a), 600(1) VTL*	No	See Footnote (1)
Leaving Scene, Injury to Certain Animals Without Reporting	Violation	601 VTL*	No	See Footnote (1)
Leaving Scene of Incident, Injury to Person	Class B Misdemeanor			
----- Subsequent violation -----	Class A Misdemeanor	510(2)(a)(111), 600(2) VTL*	Yes	
If personal injury results in death or serious physical injury	Class E Felony			
Weapons, Criminal Possession 1°	Class B Violent Felony	70.02(1)(a) 265.04	No	See Penal Law §60.05(3)
2°	Class C Violent Felony	70.02(1)(b) 265.03	No	See Penal Law §60.05(4)
3°	Class D Felony (Limited to 265.02(1)(2)(3))	265.02	Yes	
3°	Class D Violent Felony (Limited to 265.02(4)(5))	70.02(1)(c) 265.02	Generally Yes	Absent a Class A Misdemeanor conviction during past five years with or without mitigation. See Penal Law §70.02(2)(c) and (5).
4°	Class A Misdemeanor	265.01	Yes	

\* Vehicle and Traffic Law

OFFENSE	CLASSIFICATION	PENAL LAW SECTION	PROBATION ELIGIBILITY	REFERENCE
Weapons, Criminal Use Firearm 1°	Class B Violent Felony	70.02(1)(a)		
		265.09	No	See Penal Law §60.05(3).
2°	Class C Violent Felony	70.02(1)(b)		
		265.08	No	See Penal Law §60.05(4).
Criminal Sale Firearm 1°	Class D Violent Felony	70.02(1)(c)	Generally	Absent a class A misdemeanor conviction during past five years without or without mitigation.
		265.12	Yes	See Penal Law §70.02(2)(c) and (5).
2°	Class E Felony	265.11	Yes	
Wills, Unlawfully Concealing	Class E Felony	190.30	Yes	
Work Release, Absconding, From 1°	Class E Felony	205.17	Yes	
	2°	Class A Misdemeanor	205.16	Yes
Wounds, Failure to Report (Bullet)	Class A Misdemeanor	265.25	Yes	
	(Burn)	Class A Misdemeanor	265.26	Yes

1. Probation is a permissible sentence only when a person has been convicted of a "crime," that is, a felony or a misdemeanor. Violations and infractions are not "crimes" and are not probation eligible.
2. Shock Probation is a sentence under which the offender serves a jail term not in excess of sixty (60) days plus probation for a misdemeanor; a jail term not in excess of six months plus probation for a felony; or a jail term not in excess of four months plus probation in the case of an intermittent sentence (See Penal Law §60.01(2)(d)).
3. Probation eligibility for an attempted class C violent felony depends on certain conditions as follows:
  - Attempted Assault 1° Shock Probation only (See Penal Law §§60.01(2)(d), 60.05(5), 70.00(4)).
  - Attempted Burglary 2° Defendants pleading in satisfaction of any indictment with "armed felony" count (CPL 1.20(41) must get indeterminate sentence unless "mitigating circumstances" are shown. (See Penal Law §§70.02(5)(a),(b),(c)).
  - Attempted Robbery 2°
  - Attempted Criminal Possession of Weapons 2° Generally eligible. See Penal Law §§70.02(1)(b),(c); 70.02(5)(b),(c).
  - Attempted Criminal Use of Firearms 2° Generally eligible.